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THE PROBLEM OF RAILWAY TRAINMEN'S WAGES

BY JULIUS H. PARMELEE,

Statistician, Bureau of Railway Economics, Washington, D. C.

I ECONOMIC CONSIDERATIONS

Steam railways of the United States had an average pay roll during the fiscal year ended June 30, 1916, of not far from 1,700,000 persons, and paid out some \$1,500,000,000 in wages. These enormous, almost inconceivable, aggregates represent the activities of an industry which, not only because of its magnitude but also because its operations are the pulse-beats of the nation's economic life, is of the most vital interest to every citizen. Since the item of compensation to employes represents two-thirds of the total expenditures of the railways, we see why the problem of railway wages lies so close to our minds and our pocketbooks. Of especial importance is the problem when, as in the eight-hour day agitation of the railway trainmen in 1916, any increase in rate of pay, resulting in an increased wage aggregate, threatens to translate itself almost immediately into increased freight or passenger rates.

II BASIS OF TRAINMEN'S COMPENSATION

Railway trainmen represent a group of employes whose basis of compensation differs from that of any other class of labor, either within or without the railway industry. Not only is their work peculiar to the railway industry, but it is *sui generis* as to method of compensation. The problem of the hours of labor and the wages of trainmen has been before the public now daily for months, and we are likely to become even more intimate with it before the year 1917 is far advanced, yet I venture the statement that not one man in a hundred can explain the underlying features of wage payments to trainmen, the method of computing their compensation, the various alternative methods or bases of computation afforded the men, the rules and regulations that modify the computations, and so forth. Yet there must be some conception of the problem in detail, before there can be sound judgment as to the merits of the claims made by

the trainmen or the replies of the railways thereto; it is worth while, therefore, to attempt a brief summary of the problem.

Just how, or why, the basis of railway trainmen's wages is what it is, or when or where it came into being, is beyond the scope of the present discussion. Suffice it that today, and for some years past, trainmen's compensation has been computed on a mileage, that is, a piecework, basis. If this were all, the problem would be comparatively simple. Unfortunately for the layman, however, a number of additional factors enter in to complicate the question, the most important of which is the time-limit principle, designed to protect the men on the slower freight trains. This time-limit principle provides, in brief, that a trainman is paid on a mileage basis except when his time slip shows that his hours on duty exceed a time-limit proportionate to his mileage. In the latter case he is paid on a time basis.

Both in freight and passenger service on most railways, the wage schedules provide that 100 miles or less shall constitute a day's work. The passenger service is usually on a speed basis of twenty miles per hour, and the freight service ten miles per hour. That is, the standard working day is five hours for passenger crews and ten hours for freight crews. A man called for work is guaranteed a full day's pay no matter how few hours he works or how few miles his train runs. If a freight engineer is on duty ten hours or more without running 100 miles he is paid as much more than a day's pay as his hours are above ten, and if he runs 100 miles or more in less than ten hours he is paid as much more than a day's pay as his miles are above 100. If he either works more than ten hours or runs more than 100 miles, or both, he receives payment for the overtime or the excess mileage, whichever produces the greater amount of wages. In other words, if the freight train on which a man is employed averages less than ten miles an hour he is paid on the hourly basis; if it averages more than ten miles, he is paid on the mileage basis. The result is that practically no train employees work more than ten hours for a day's pay, and thousands work less. Thus, the ten-hour day in railway train service merely indicates the *maximum limit* of time for which a day's pay is granted, although in other industries a ten-hour day means that employees not only do not work more than ten hours, but also do not work less than ten hours, to earn a day's pay.

III THE TRAINMEN'S BROTHERHOODS

Railway trainmen maintain perhaps the best organized labor unions in the world, closely knit together, ably generalised, well financed, with a keen consciousness of their power. The Brotherhood of Locomotive Engineers, organized in 1863, has now 75,000 members. This organization has been termed "perhaps the most aristocratic of trade unions." The Brotherhood of Locomotive Firemen and Enginemen, organized in 1873, reports about 85,000 members; the Order of Railway Conductors, organized in 1868, reports about 50,000 members; while the Brotherhood of Railroad Trainmen, organized in 1883, reports a membership of 135,000.

These four organizations, commonly known as the "brotherhoods," comprise about 350,000 members, or about nine-tenths of the total number of railway trainmen in the United States. Trainmen received in 1916 wages aggregating about \$400,000,000. That they are among the best paid railway employes is shown by the fact that they form about 17 per cent, or not quite a fifth, of the total number on the railway pay roll, but receive about 27 per cent, or over one-fourth, of the total wages. They have also what are probably the largest earnings of any large class of skilled labor in the world. Official returns of trainmen's earnings in 1916 have not yet been filed by all the railways with the Interstate Commerce Commission, but preliminary tabulations covering 124 roads, with an operated mileage of 144,000 miles, indicate average annual earnings approximating \$1,970 for enginemen, \$1,200 for firemen, \$1,700 for conductors, and \$1,045 for other trainmen.

IV THE DEMAND OF 1916

The four brotherhoods came together in 1916 for a concerted demand on the railways, their employers. Each of the brotherhoods had waged regional fights before; in several cases two or three of the brotherhoods had joined hands in a regional fight for higher rates of pay. But no one brotherhood had made nation-wide demands before, nor had the four brotherhoods worked together even in regional demands. It was for the first time, then, that the four brotherhoods joined forces in 1916 and made a concerted demand on practically all railways of the United States, on behalf of all the trainmen. Here, indeed, was an impressive demand, not only in-

volving 350,000 to 400,000 workers directly, but threatening to throw out of work perhaps a million other railway employes, who would be forced to quit their duties if the trainmen, failing to gain their ends peaceably, should tie up railway operation by means of a strike.

The gist of their demand was as follows: In road service, 100 miles or less, eight hours or less, shall constitute a day; overtime shall be computed on a time-and-one-half basis, and will begin after eight hours on a run of 100 miles or less, or on a longer run when the time on duty exceeds the miles run divided by twelve and one half. The eight-hour day shall replace the ten-hour day in yards, overtime shall begin after eight hours, and shall be computed on a time-and-one-half basis.

On the face of it, this demand simply replaces the ten-hour day with an eight-hour day, and establishes an overtime rate of time-and-a-half. As a matter of fact, there are several underlying features that considerably affect the bearing of the demand. Notice, for one thing, that the brotherhoods do not abandon mileage as the chief factor in computing compensation, but strengthen the time-limit principle by increasing the speed basis from ten miles to twelve and one half miles. Again, the demand applies only to the freight service, although this is not specifically stated; for practically all passenger wage schedules establish the basic day of five hours. Still further, and most important of all, the demand recognizes the exigencies of train operation by claiming overtime pay on runs over 100 miles not after eight hours, but after such number of hours as represents the mileage divided by twelve and one half. Thus on a run of 125 miles overtime would not commence until ten hours had elapsed; on a run of 140 miles, eleven hours and twelve minutes; and so on. This point is of great significance, and will be developed later.

The demand of the trainmen was formally made in March, 1916. Through various stages negotiations proceeded till they landed both sides in absolute deadlock. In June of that year the brotherhoods proceeded to take a "strike vote," or referendum, indicating the willingness or unwillingness of each individual trainman to go on strike in order to gain the desired ends. Under the constitutions of three of the brotherhoods the leaders have no authority to call a strike unless and until directly empowered to do

so by referendum vote of two-thirds of the members involved. In late July, 1916, the result of this vote was announced as overwhelmingly in favor of a strike, and negotiations were resumed. These again resulted in deadlock, and the President intervened to save the situation, if possible, and avoid a national railway tie-up, with all its attendant suffering and ruin.

V THE ADAMSON EIGHT-HOUR LAW

The result of the President's efforts is still fresh in our minds. After protracted conferences with both sides, it was discovered that a secret strike order had been issued by the brotherhood leaders, effective on Labor Day. At the President's behest, Congress thereupon enacted the so-called Adamson eight-hour law, which was approved on the eve of the strike and just in time to stay it.

Section 1 of the law provides that

eight hours shall, in contracts for labor and service, be deemed a day's work and the measure or standard of a day's work for the purpose of reckoning the compensation for services of all railway employees . . . engaged in any capacity in the operation of trains used for the transportation of persons or property.

Section 2 creates a commission of three, to "observe the operations and effects of the institution of the eight-hour standard work-day."

Section 3 provides

that pending the report of the commission . . . and for a period of thirty days thereafter the compensation of railway employees subject to this act . . . shall not be reduced below the present standard day's wage, and for all necessary time in excess of eight hours such employees shall be paid at a rate not less than the pro rata rate for such standard eight-hour work-day.

The provisions of the act were made effective January 1, 1917.

VI THE RAILWAYS AND THE EIGHT-HOUR WORK DAY

Certain specific reasons are given by the railways for opposing the principle of an eight-hour working day in train operation.

First. Passenger and freight trains are run at all hours of the day and night. Trains that run on a regular schedule must be manned with crews, no matter what hour of the twenty-four it may be. Trains that do not run on schedule are usually the slow freight trains, handling local or way freight. These are frequently

sidetracked to allow the passage of passenger trains and of scheduled freight trains; they are necessarily sandwiched into the train dispatcher's scheme as best he may arrange for them; they are the footballs of the tracks, and there can be no thought of running them within any regular time limits. Even through freight trains, and sometimes mixed passenger and freight trains as well, may fall into this same category. The situation is further complicated by the evident necessity of running trains at varying rates of speed. Hence arises the impossibility of putting all trains onto an eight-hour basis, or some trains even onto a ten-hour basis. This is the principal railway argument against the eight-hour work day. As we have seen, the argument has a basis in that provision of the trainmen's demand which, on runs above 100 miles, defers the payment of overtime as much beyond eight hours as the mileage is more than 100. By including such a provision in their demand, the trainmen clearly recognized that the eight-hour maximum work-day is not feasible on all runs or under all conditions.

Second. At most of the railway terminal points towns have sprung up and the railways have expended millions in purchasing land, laying out freight yards, and building necessary roundhouses, repair shops, freight depots and warehouses. These facilities have been distributed along the line of each road at various intervals, which are generally covered by the slower freight trains in from ten to twelve hours. Now shorten the work day to eight hours, and you must either move your terminals nearer together or speed up your trains.

Third. The alternative of moving terminals closer together is clearly out of the question. Not only would it cost billions in money, but the change would throw countless communities out of their line of natural development, would disturb property values, and in any case would be well nigh impracticable as a physical accomplishment. Were the railway network to be constructed in the future, or were even now in process of construction, the thing might be practicable; with the railway system already established and solidified, however, this alternative is unthinkable.

Fourth. To speed up freight trains is the other alternative. It would require freight crews to make their runs in eight hours or less instead of ten, or to put it differently, to average twelve and one-half miles an hour instead of ten miles. This alternative has

been proposed by the trainmen themselves as a solution of the problem, and was in fact the speed basis established by their demand of 1916. Run your freight trains a little faster, they argue, cut down the number of cars or increase the engine power if necessary, but at any rate increase your train speed.

Here is the railways' answer: All past increases in cost of capital, of materials and supplies, and of labor have been neutralized only by increasing the efficiency of railway operation. This has consisted almost wholly in increasing the capacity of freight cars, the number of cars in a train, and above all the length and weight of freight trains.¹ All these factors of increased efficiency have served merely to offset the increasing costs of operation, which are indisputable. They have also served of necessity to slow down the normal rate of speed of the long, heavy trains, both on the line and in terminal yards.

Another advantage claimed for larger train loads is their favorable effect on the safety of railway operation; the larger the average train load, the fewer are the trains required to handle a given amount of freight. This lowers the density of traffic, reduces the chances of collision at meeting and passing points, and increases the margin of safety. This is especially true where speed is necessarily reduced because of great train weight and length.

Without dwelling on this point of comparative safety, it is clear that if increased physical efficiency has served to offset the increasing costs of operation, then lowering that efficiency by decreasing length of trains and size of train loads to secure increased speed will mean increased operating costs, which in turn must be offset by increased revenues. And increased revenues can only be had by means of higher freight and passenger rate levels.

This brings us to the kernel of the railway point of view, and to their specific arguments against the eight-hour work day. If you cannot move your terminals, then you must either speed up your trains, sacrificing efficiency and increasing your operating costs thereby, or else you must maintain your present operating conditions, run your freight trains ten hours or more a day, and be pre-

¹ From 1910 to 1915 average freight car capacity increased from 36 tons to 40 tons, number of cars per freight train from 28.3 to 34, average train load from 380 tons to 474 tons, average tractive power per locomotive from 27,300 pounds to 31,500 pounds.

pared to pay an annual overtime bill variously estimated up to sixty millions. Long heavy trains unquestionably require greater running time than lighter trains; lower speed is a part of the price paid for efficiency; if, then, the public demands operating efficiency, using the term "efficiency" in its physical sense, it must pay the bill in the shape of overtime payments to trainmen; if, however, the public demand emphasizes the eight-hour work day feature, then efficiency must be sacrificed and the toll will be higher operating costs in the form of a larger force of trainmen to handle the traffic. To put it differently, the one alternative will call for more compensation to the present operating force; the other alternative will call for a larger operating force; the average earnings of each member of the force remaining as at present. Both alternatives will increase the *aggregate* cost of railway operation.

VII THE EFFECT OF THE EIGHT-HOUR LAW

Railway officials and the trainmen have given considerable thought, and have held a number of conferences, regarding the meaning of the eight-hour law, and the courts have also been called upon to interpret it. Discussion has centered on the meaning of the words of the first section reading "eight hours shall, in contracts for labor and service, be deemed a day's work and the measure or standard of a day's work for the purpose of reckoning the compensation for services." The whole situation hangs on this phrase, which makes no mention of miles run, but only of hours per day.

Some have emphasized the phrase "be deemed a day's work," and have argued that this calls for an actual *work day* of eight hours, no more and no less. They point also to the words "eight-hour standard work day," in the second section as corroborating their position². A passenger engineman or conductor who now runs his 100 miles in four hours would, under this strict interpretation, be required to put in another four hours or be satisfied with half a day's pay. If the courts uphold this interpretation, the railways might be forced to grant compensatory privileges that would neutralize the eight-hour requirement. They might, for example,

² In this connection it is significant that the President's annual message to Congress, December 5, 1916, states that by passing the eight-hour law Congress "established the eight-hour day as the legal basis of *work* and wages in train service." The italics are mine.

be forced to double the rate of pay per 100 miles in passenger service; the engineman could then well afford to stop at the end of his four-hour run, having earned the equivalent of his former day's pay in what under the law would technically be only half a day.

Others have emphasized the phrase "measure or standard of a day's work for the purpose of reckoning compensation," and argue from this the intention of Congress to make eight hours the basic *pay day* rather than work day. This view is strengthened in that the act provides overtime pro rata for every hour above eight.

How sound the varying interpretations of the eight-hour law may prove to be, only the future will show, and much will depend on the findings of the commission of three provided by the act and already constituted by the President as follows: Major General Geo. W. Goethals, U. S. A., chairman; George Rublee, of the Federal Trade Commission; Edgar E. Clark, of the Interstate Commerce Commission. This commission has a maximum of ten months, or until November 1, 1917, within which to file its report, and the railways must hold to the provisions of the act for thirty days thereafter. What will then come to pass is given only to a seer to surmise.

If the railways have established their argument that the eight-hour law means increased operating costs, the final question must deal with the amount of the increase and the incidence of the burden.

It is clear that the public in the last analysis pays the cost of railway transportation. Whether or not a given sum can be absorbed by the railways for the time being without increasing transportation rates is a less important consideration than the actual amount by which such a provision as the eight-hour law will increase railway expenses. To ascertain this amount is well nigh impossible until the necessary readjustments have been made. If the eight-hour principle becomes firmly established as a factor in train operation, it is not unreasonable to suppose that the pressure of circumstances will gradually extend the same principle into other branches of railway operation, each extension bringing its burden of increased cost. For the economic principle that decreased hours of labor do not necessarily lead to increased costs may or may not apply to the railway industry. Even if it does prove applicable, it must not be forgotten that the demand of the railway

trainmen in 1916 for an overtime rate of time-and-one-half is as yet unappeased. This feature of the demand, the railways have estimated, will add not less than forty millions to their annual wage bill. Thus the eight-hour law may prove but the opening wedge to a considerable increase in the future cost of railway operation.

VIII CONCLUSION

Two questions remain to be answered. First, did the trainmen's demand contemplate a real eight-hour day, or was it merely a bid for higher rates of pay? And second, what did the eight-hour law give them?

As to the first question, the brotherhoods have consistently claimed that their demand for a so-called "punitive" overtime rate—that is, a rate so much above the regular hourly rate that the railways would strive to avoid overtime—proved the sincerity of their avowed desire for a maximum work day of eight hours. In their journals they usually spoke of their demand as one "for an eight-hour work day, with a penalty for overtime of time and a half pay." We have seen, however, that the force of this claim is weakened by the provision in their demand for deferring overtime on runs above 100 miles. This provision is evidence that the brotherhoods realized the impossibility of enforcing the eight-hour principle on the long runs. The railways have just as consistently claimed that the trainmen were seeking higher rates of pay rather than shorter hours of work, and that the principle of punitive overtime was inserted merely as one element of increased pay. Knowing that the running time of trains could be shortened but little, if at all, the trainmen figured that the time-and-a-half provision would increase their compensation for all the long runs.

The second question concerns actual conditions, that is, the effect of the eight-hour law. To contrast what the trainmen demanded with what the law gave them, the main points in each may be summarized as follows:

The Demand

1. Ten hours' pay for eight-hour day.
2. Time and a half for overtime.

The Law

1. Ten hours' pay for eight-hour day.
2. Pro rata for overtime after eight hours.

Thus the law gave them only part of what they sought. As the matter now stands, by providing pro rata for overtime the law makes it a matter of little moment to the railways whether the running time of a train is long or short, provided only they maintain the speed rate implied in the law. Thus for a run of 125 miles the train crew will receive one and a quarter days' pay, because of the mileage pay basis, and it makes little difference to the railway whether the day is measured by eight hours or ten hours. If the shorter time, then the extra quarter day's pay will be for excess mileage; if the longer time, it will be for excess time. However denominated, the amount actually paid for the run will be the same in either case.

Under the eight-hour law, every run for which the hours exceed eight by a percentage greater than that by which the length of the run exceeds 100 miles, will carry an increase of pay to the train crew. And the proportional increase will be more, the greater the percentage of hours above eight exceeds the percentage of miles above 100. This holds for all cases where the mileage basis of pay remains in force.

The increases the eight-hour law will bring the men in road service will be on those long runs that cannot be completed within the time limit of miles divided by twelve and one-half.³ If the railways are correct in their statement that the running time of these trains cannot be shortened, then the aggregate pay roll in the slower freight service will be considerably increased. But, mark you, this will not be the result of any shortening of working hours, but of an increase in the basic hourly rate of pay. This confirms the contention of the roads that the demand of 1916, and more especially the eight-hour law, provides not a shorter basic *work day* but a shorter basic *pay day*.

If additional proof of this fact were needed, it is furnished by comparing the language of the sixteen-hour law and telegraphers' nine-hour law of 1907, with the so-called "eight-hour" law of 1916. The hours of service act of March 4, 1907, made it unlawful for any railway "to require or permit" employes engaged in train operation to remain on duty longer than sixteen hours; similarly, it provided that no telegraph or telephone operator connected with the movement of trains "shall be required or permitted" to remain on duty

³ There is some question whether the law applies to yard and work service, where the time basis of payment usually holds.

longer than nine hours. In both cases there is a distinct prohibition of longer hours than the sixteen and nine respectively prescribed. In the case of the "eight-hour law" of 1916, however, there is no such prohibition. The provision simply is that "eight hours shall be deemed a day's work," and by fixing overtime rates of pay the law clearly indicates the belief of its framers that overtime work is not only necessary, but to be expected.

If, then, the Adamson eight-hour law does not *ipso facto* provide an eight-hour working day, and if the principal result of the law will be, as we have seen, to increase either the number of employes or the amount of overtime payments, then it follows that the effect of the law will be essentially to increase the aggregate of railway wages.

THE CASE OF RAILROAD EMPLOYEES FOR AN EIGHT-HOUR DAY

BY W. JETT LAUCK,
Washington, D. C.

Any discussion of the eight-hour day for transportation workers is now limited to a presentation of the opposing points of view. Data are not available upon which to base a conclusive verdict as to the merits of the practical phases of the controversy. To a large extent, a discussion of the matter is at the present time, as President Wilson has stated, "an adventure in conjecture." It was for this reason that he recommended the establishment of a commission to gather the facts bearing upon an eight-hour working day in the railroad service before the actual adoption of such a working basis for railway operations.

There can be little dispute as to the desirability of having a shorter work day in the transportation industry and other branches of industrial activity. During the year and a half of ceaseless controversy which has characterized the current movement for an eight-hour day for transportation workers, railroad officials have not attacked the fundamental principle involved. All their opposition has been centered upon the practical aspects of the matter. Their argument has been that from the technical standpoint of railway operation the shorter work day cannot be adopted if the present efficiency and earnings of the railroads are to be maintained. This is another way of saying that on the present basis of railway earnings the companies cannot afford to meet the alleged increase in operating costs which would follow the establishment of the rule that eight hours should constitute a day's work.

The real opposition is one of expense. How large or how small the additional expenditure may be, no one knows. If the facts have been compiled, they have not been made available. They cannot be obtained from the data in the published reports of the railroads or those which are filed at the Interstate Commerce Commission. The results of the work of the eight-hour commission must be awaited before any satisfactory light can be secured upon

this fundamental point in the controversy. Stated in its practical form the questions as to an eight-hour day, therefore, are: What will the adoption of an eight-hour day by the railroads cost? Does the public consider the railroads able to pay for an eight-hour day? If not, does the public so believe in the principle that it is willing to pay for it if any payment in the form of increased freight and passenger rates is necessary?

The railroad employes have a firm conviction as to the fairness and justice of their request for an eight-hour day. From the standpoint of the employes in freight train service, the fundamental need for an eight-hour day is based on the fact that working conditions have reached a stage where they are practically unendurable. Under the best conditions, the requirements of railway service are very onerous. Train and engine employes are subject to calls for duty at all hours of the day and night; a large part of their time must be spent in terminals away from their homes and families; in their work, the normal danger of accident or death is very great; they constantly bear heavy responsibilities for the safe handling of lives and valuable property entrusted to their care.

These conditions of employment are quite different from any which prevail among workers in mines, the manufacturing industries or among skilled artisans. They are necessarily incidental, however, to the operation of trains. Engine and train crews expect to meet these conditions when they accept work. When to these more or less natural conditions of employment, however, there have been added arduous labor and heavy responsibilities arising from the desire of the railway managements to secure larger revenues, the situation has become one against which they find it absolutely necessary to enter a protest.

During recent years, railway operating officials have constantly striven to secure greater efficiency or, stated in other words, have attempted to lower the costs of operation by adding to the length and tonnage of freight trains. The development of heavier freight train loads and larger freight train earnings per mile has been the goal of all railway operating officials. Engines of greater and greater tractive power have been installed, freight cars of constantly increasing capacity have been built, the number of cars in trains has been increased, the roadbed has been strengthened, heavier rails laid, new bridges constructed, grades reduced and curves elim-

inated,—all for the purpose of getting heavier trains over the roads with the object in mind of reducing operating costs. Railway officials discovered that it was cheaper in many instances to load the engines to the limit—to the point where they could only drag the trains over a division at a very slow speed—than it was to send two trains of half the weight over the division in a shorter space of time. Although some overtime must needs be paid to the enginemen and trainmen, the railroad experts estimated that it would be cheaper to pay this for the heavier trains than it would be to have to meet the wages of two crews for the lighter trains.

The general purpose of curtailing operating expenses and increasing profits, in its bearing upon the well-being of employes, was commendable if it had been kept within proper bounds. But the so-called "tonnage craze" was pressed forward to such an extent that railway workers believe they have become its victims. The factor of speed in moving trains was eliminated by railroad officials and working conditions quickly reached a stage which employes declared intolerable. Slower speed meant that a longer time was required for a train to pass from one terminal to another. Engine and train crews which had formerly been paid on a mileage basis were practically confined to an hourly basis of compensation and the opportunity for increasing their earnings was curtailed. They received compensation for time worked in excess of ten hours, but the physical disadvantages of being so long on duty, not to mention the unsatisfactory conditions arising from being absent from home for such extended periods, far exceeded any pecuniary considerations. With such conditions of employment railroad employes were forced to request a shorter working day.

The excessive hours of labor to which engine and train crews have been subjected in recent years may be quickly shown by a few statements from official sources. According to the sworn statements of the railroads in a recent wage arbitration case, out of each thousand engineers and firemen employed by the western railroads in freight service in October, 1913, eight hundred and seventy-seven had a working day of more than ten hours, three hundred and forty-seven more than twelve hours, one hundred and eighty-one worked thirteen hours or more, seventy-two worked fourteen hours or longer, and thirty out of each thousand employed averaged fifteen hours or longer a day. In through or irregular

freight service alone, 35 per cent, and in local or way freight service, 54 per cent of the engineers and firemen averaged twelve hours or longer each day. On certain divisions of some of the western railroads, the normal working hours were even in excess of these averages.¹

As to the eastern operating district, the railroads in 1913, during the course of arbitrations with their eastern employes, submitted exhibits which showed for October, 1912, firemen and other employes in slow freight service were on duty on an average for all roads, eleven hours and forty minutes. In the case of some railroads, the average time on duty each day was more than fourteen and fifteen hours. In local freight work and wreck train service, the average daily working time of engine and train crews in eastern territory was more than twelve hours.²

Engine and train employes do not deny that through direct negotiations with the railroads, or by mediation and arbitration proceedings, they have, during recent years, secured advances in their rates of pay. On the other hand, they do not concede that advances in operating costs of the railroads have been primarily due to added outlays to transportation employes. Train and engine crews, they claim, have given to the transportation companies more than they have received in increased rates of pay. This fact is clearly shown, they declare, by the reports of the railroads themselves to their stockholders and to the Interstate Commerce Commission. Although engineers, firemen, conductors and trainmen have received advances in rates of pay during recent years, they have had to work harder, and have handled more traffic each year for each dollar of additional compensation received.

Transportation employes are piece-workers. They are engaged in handling freight and passenger traffic. The requirement for a standard day's work is to haul so many tons of freight or so many passengers 100 miles. If the weight of a freight train is increased the cost to the railroads for labor in handling each ton of freight 100 miles is less.

The growth in weight of freight trains has been more rapid than

¹Arbitration—Western Railroads and Brotherhoods of Locomotive Engineers and Firemen 1914-1915. Railroad Exhibit No. 29.

²Arbitration—Eastern Railroads and Brotherhoods of Conductors and Trainmen 1913. Railroad Exhibits Nos. 9, 10.

the advances in rates of pay to transportation employees. Engine and train crews have transported proportionately a greater volume of freight than they have received increases in wages. As a consequence, the labor cost to the railroads of engine and train crews has decreased.

During the course of the recent arbitration between the western railroads and their engineers and firemen, it was shown that the proportion of total operating expenses arising from payments to transportation employees was 14 per cent less in 1913 than in 1890. In 1913 it was also shown that wage payments to transportation employees required only nineteen cents out of each dollar of revenue earned by western railroads as compared with twenty-one cents out of each dollar of revenue in 1890. When considered on the basis of freight tonnage, it was found that it cost the railroads for wages to locomotive engineers and firemen sixty-five cents for each 1,000 tons carried one mile in 1890, while, in 1913, engineers and firemen transported 1,000 tons one mile for only thirty-three cents, a decrease in cost to the railroads, for these employees alone, during this period of slightly more than 50 per cent. It was also shown further by exhibits submitted during the western arbitration that during the more recent period, 1900-1913, the cost to the transportation companies for wages of engineers and firemen decreased 12 per cent for each 1,000 tons of freight hauled one mile.³

The latest reports filed at the Interstate Commerce Commission also bear out these statements. If all the railroads of the United States—including the best and the worst, the prosperous and the insolvent—be grouped together as one operating system, their reports to the Interstate Commerce Commission show that in 1914 it cost them in wages of engineers and firemen only 31.1 cents to transport 1,000 tons of freight one mile, as compared with 42.7 cents in 1895. In other words, during the past twenty years, the cost to the railroads in wages of engine crews for hauling freight declined more than 27 per cent. The reduction by geographical districts may be quickly seen from the accompanying statement.

From a technical standpoint, the employees assert that the eight-hour day is practicable because it already is in successful operation on a considerable proportion of the railways in the United

³Arbitration—Western Railroads and Brotherhoods of Locomotive Engineers and Firemen 1914-1915. Employees Exhibits Nos. 31, 32, 33.

WAGES TO ENGINEERS AND FIREMEN, 1895 AND 1914.

District	Wages paid for hauling 1,000 tons one mile		Per cent of decrease, 1914 over 1895
	1895 (Cents)	1914 (Cents)	
East	35.8	29.3	18.1
South	40.3	32.4	19.6
West	56.0	33.0	58.9

States. Locomotive engineers now have an eight-hour day in through freight service on 55 per cent, and locomotive firemen on 20 per cent of the railroad mileage of the South. In this territory west of the Mississippi, about 5 per cent of the total number of miles of road operated have an eight-hour day for engineers and 3 per cent have the same working day for firemen.

As to the cost of an eight-hour day under a strict application of the eight-hour day principle to railroad operations, it would be necessary in many instances for the railroads either to shorten the distance between terminals or to reduce their freight train loads so as to be able to maintain a speed basis of twelve and one-half miles an hour or a hundred miles in eight hours. Either of these measures, when necessary, would add to the cost of railway operations. According to the original requests of the transportation employes, however, no costly terminal changes would be necessary. It was acknowledged by the employes that it would be impracticable to compel railroads to change their division points so that each and every division should be 100 miles apart. Special provision was made in the first article of the requests of employes that so long as the mileage of an engine or train crew was equivalent to or exceeded twelve and one-half miles an hour, there would be no increased compensation to employes for overtime. If terminals were 150 miles apart, for example, the railroads would escape all overtime penalty if they did not keep their engine and train employes on duty longer than twelve hours.

An eight-hour day in passenger service, the employes contend, would not cost the railroads a single dollar, because the daily minimum of a 100 miles is accomplished in less than eight hours. During the recent arbitration case between western railroads and their

engineers and firemen, the railroads presented elaborate statements based on their official train sheets and other records for the month of October, 1913, which was one of the busiest months in railroad history during the past fifteen years. This exhibit showed that the average time of 78 per cent of through or irregular freight service on all railroads west of the Mississippi River in October, 1913, between terminals 112 miles apart was eight hours and twenty-four minutes. Transportation employees, therefore, in almost four-fifths of the through or irregular freight service in the West, which constitutes about three-fifths of all freight train mileage, do produce their 100 miles, the standard for a day's pay, within seven hours. It would follow, according to these sworn statements of the railroads, that on slightly less than half of the freight traffic of the West the adoption of the eight-hour day would require no additional labor outlay. The remaining 22 per cent, or slightly more than one-fifth of the total through freight trains, accomplished their runs at a speed of less than ten miles an hour, and were twelve hours and eighteen minutes between terminals 102 miles apart, or would require twelve hours between terminals 100 miles distant from each other. Additional outlay would, therefore, probably be required for the adoption of an eight-hour day on only one-fifth of the through freight service in the West. No overtime at an advance of 50 per cent over regular rates, however, would be paid unless the railroads found such overtime payments to be profitable. The traffic could be sent over the heavy divisions in lighter trains, which would make a speed of twelve and one-half miles an hour. Under any change in operating conditions which might be made, only 7 per cent of the total pay roll would be affected for the reason that through or irregular freight train mileage constitutes only 32 per cent of the total train mileage of the West and only 22 per cent of this proportion would involve a longer working day than eight hours.

In the case of local or way freight, and in construction or work train branches of the service, it was also shown, by exhibits presented in the western arbitration already referred to, that about 30 per cent of the local freight trains in the West accomplished their runs at a speed greater than ten miles an hour. Approximately 70 per cent of the local freight traffic, therefore, is handled in the West by engine and train crews which work longer than eight hours each day. But local or way freight train mileage in the West constitutes only about

12 per cent of total train mileage, and as only 70 per cent of this would be below the speed of twelve and one-half miles an hour, only 8 per cent of the aggregate wage outlays for employes engaged in handling trains would be affected by an eight-hour day.

In the case of yardmen, switchmen and hostlers, who have a definite working day of ten hours or more, it is true that it would be necessary to reduce the working day arbitrarily, and the railroads would face a theoretical decrease of from 10 to 20 per cent in hours of service. Manifestly, there would be no overtime penalty payments, however, for work necessary beyond eight hours a day would be done by additional shifts.⁴

These illustrations from western operating experiences, the employes assert, are representative of operating conditions in the country as a whole. In the East the proportion of freight trains which operate at a speed less than ten miles an hour is greater than in the West, because of greater volume and density of eastern traffic, and the kind of commodities transported. In the southeastern states, the proportion of freight train mileage made on a speed basis greater than ten miles would be greater than in the West. The general average of the country as a whole would, therefore, correspond approximately to the western situation and would indicate that the financial aspects of the requests for an eight-hour working day need not cause serious apprehension. Even should an added outlay be required, this does not imply that the public would have to pay the additional cost in the form of higher freight rates.

The matter of increased passenger and freight rates is one which, in the opinion of employes, must needs be adjusted between the railroads and the public. There are two inquiries in this connection which the public has a right to make and relative to which it should be able to expect explicit and satisfactory replies. In the first place, is there any reason to believe that the prosperity which the railroads are now enjoying, will not continue? It is a well-known fact that the gross and net earnings of the railroad companies are now larger than they have ever been in their history. After the temporary breakdown at the opening of the great European conflict, the war orders for ammunition and supplies gave the first revivifying impulse to traffic. This was followed, however, by an expansion of

⁴Arbitration—Western Railroads and Brotherhoods of Locomotive Engineers and Firemen. Railroad Exhibit No. 10.

domestic trade and industry which will continue, according to the best authorities, after the present foreign war has terminated. Moreover, the unusual traffic and profits of war orders will undoubtedly remain for some time in the future. The verdict of those who conservatively pass upon such matters is that for several years to come the extraordinary profits arising from the transportation of war materials as well as the large gains springing from the activity of permanent trade and industry, will steadily continue. It is incumbent upon the railroads, therefore, to show cause why these tremendous increases in net revenue are not sufficient to cover, without an advance in freight rates, whatever cost may attach to the adoption of an eight-hour day, as well as leave a surplus available for a liberal return on old or new capital investment.

It is also a well-known fact, the employees assert, that had the financial administration of the railroads in past years been efficient and proper, the financial status of the transportation industry would now be all that could be desired. Hundreds of millions of dollars, which have been dissipated by indefensible methods in past years, would now be available. Many more millions of dollars, which each year are taken from operating revenues and disbursed as dividends and interest charges on fictitious stocks and bonds, could, it is stated, also have been used for the benefit of employes, stockholders and patrons, if the railroad companies had been properly managed in former years. As it is, many state governments have already passed legislation requiring security issues, reorganizations, and consolidations of the railroads to be passed upon by public utility commissions. Similar legislation is pending in Congress and is now being considered by a joint committee. With the general application of such legislation as well as other like proposals, there will be assurance as to the actual investment in railroad property and a more equitable distribution of earnings. Under these conditions, revenues may be adequate to meet any increased operating costs, and provide new capital without recourse to an advance in freight charges. At any rate, if the public should deem it wise to authorize advances in rates, they could have the assurance that the proceeds would be used for the purpose intended.

The employees claim that their attitude in requesting an eight-hour day is thoroughly consistent with their previous arguments

for higher rates of pay. Although they have received some wage advances, their contention is that they have by no means had a fair share in the revenue gains arising from their increased productivity. To the extent to which the railroads may find it necessary to reduce train loads in order to maintain a speed of twelve and one-half miles an hour, or an eight-hour day, it is claimed there will be earnings remaining arising from the increased work and productivity of transportation employes in the past, sufficient to compensate fully the railroads for any difference in labor costs. They request a share in past gains in productive efficiency for which they claim they have not been remunerated—a share not in actual money, but in terms of shorter hours or of improved working conditions and general well-being.

ISSUES IN THE STREET RAILWAY STRIKE IN NEW YORK CITY

BY ROBERT W. BRUÈRE,
New York City.

The issues in the street railway strike in New York City are so many and complex that it is impossible to define them in the limited space of an editorial article. On the one side stand the questions of trade union policy raised by the conduct of the strike by the Amalgamated Association of Street and Electric Railway Employees; on the other, the questions of business administration in relation to labor raised by the action of the owners and officers of the New York transportation companies. In addition to these general questions there are the issues raised by the creation by the companies of the "within-the-family" brotherhood and the introduction of the individual agreement as weapons against the independent organization of the employees as represented by the Amalgamated. Beyond all these are the questions raised by the wholesale introduction of strike-breakers recruited from all parts of the country to decide a local issue and the use of the police to protect these strike-breakers against the interests of strikers who are citizens of the municipality. The issue raised by the individual agreement is the one which has apparently attracted most general attention, and for this reason this agreement is given in full in the footnote.¹

¹WORKING AGREEMENT

1st. The Interborough Rapid Transit Company employs the undersigned for the wages and hours set forth on the annexed schedule in the Subway until the beginning of Initial Operation as defined in Subway Contract No. 3 or on the Elevated, until the beginning of operation of any part of the Railroads as defined in the Elevated Railroad Certificate and (provided the Public Service Commission shall approve when such operation shall begin) until August 31st, 1918.

2nd. The undersigned agrees to work for the Company in such positions as may be assigned to him from time to time (provided there shall be no reduction in position except for good cause) for such wages and hours for such periods.

3rd. It is further agreed that if the Company shall increase the wages or

Important as all these matters are, they are after all subsidiary to the one preëminent issue raised by the strike,—namely the right of the public to a determining voice in the adjustment of industrial disputes, especially when they involve a major public utility. For the most significant fact in this strike is that an agreement underwritten by the mayor and by the chairman of the Public Service Commission crumbled into dust under pressure of the first serious dispute that arose between the two parties at interest.

Early in August, the Amalgamated Association of Street and Electric Railway Employes demonstrated its hold upon the employes of the New York Railways Company, which operates most of the city's surface lines, by success in tying up traffic on these thoroughfares. Immediately, Mayor John Purroy Mitchel and Chairman Oscar Straus of the Public Service Commission intervened in behalf of the discommoded public, and by a series of conferences with representatives of the two sides, succeeded in obtaining the signatures of these representatives to an agreement. This agreement, bearing date of August 6, 1916, provided as follows:

1. The employes have the legal and moral right to organize, and the company pledges that they will not interfere with the employes in their exercising of these rights to organize, either by intimidation, coercion or discharge, nor shall the employes undertake to interfere with other employes in their exercising of their rights to decline to organize, either by intimidation or coercion.

2. The company will receive and treat with a committee of the employes upon any and all questions that may arise between them. This committee to select such spokesmen or advisers as they may choose to represent them, without any objection on the part of the company, and the company will in no way

change the hours set forth on the schedule, the undersigned shall have the benefit of such increase or change notwithstanding this agreement to the contrary.

4th. If, after five years' service in any one class, for physical causes beyond the control of the undersigned, he shall be assigned to a lower position, he shall then receive at least the low rate wages on the schedule of the class from which he is transferred.

Dated New York City,

1916

INTERBOROUGH RAPID TRANSIT COMPANY.

By FRANK HEDLEY,
Vice-President & General Manager.

.....
Employe

Pass No.....

interfere with the selection of the committees of employes, it being understood that if the committee shall select to represent it the officers or other representatives of any particular organization, their appearance on behalf of the committee shall not be deemed a recognition on the part of the company of the organizations of which they are the officers or representatives.

3. That the question of wages and working conditions between the employes and the company shall be taken up by and through a committee of employes with the officials of the company on a date to be agreed upon between them—such date not to be later than the 20th day of August, 1916.

The committee and the company in conference shall attempt to reach a satisfactory settlement upon all questions of wages and working conditions, and upon such points as they may fail to reach an agreement they shall submit to a board of arbitrators—the board of arbitrators to be composed of three disinterested persons, one to be selected by the officials of the company, one to be selected by the committee representing the employes, and these two arbitrators to select the third.

Both sides to be given full opportunity to present all evidence and argument in connection with their points submitted to arbitration, and the award of the majority of the arbitrators, in writing, shall be final and binding.

It is also agreed that all disputes that may arise between the company and the employes in the future, on which they cannot mutually agree, shall be submitted to arbitration as herein provided.

4. In the interest of public safety and public service, the company wants it clearly understood that the direction and control of employes in all matters looking to efficiency in the service remains with the company and is not to be the subject of conference or arbitration, but if a dispute should arise as to whether a particular case falls within the above class, that question shall be subject to conference and arbitration as above provided for.

5. If the above is agreed to and accepted, it is further agreed that the employes shall declare off the strike and return to work immediately, in the positions they occupied prior to the time of going on strike, without prejudice.

This agreement to be underwritten by his Honor, Mayor Mitchel, and by the Honorable Oscar S. Straus, chairman of the Public Service Commission for the first district.

This is the agreement as accepted by the company, acquiesced in by the representatives of the men, ratified by the men, and underwritten by Mayor Mitchel and Chairman Straus. On August 30, Mr. Hedley, manager of the New York Railways Company and of the Interborough Company, which operates the subway and elevated lines, informed Mr. Fitzgerald, organizer of the Amalgamated, and his associates, that

as the same men governed the policies of the Interborough as governed the policies of the Railways Company, they might proceed upon the assumption that the principles and policies embodied in the Railways agreement of August 6th would be regarded as controlling in the case of the Interborough. (From the official record.)

On this same day, August 30, the Interborough Company began to circulate among its employes the WORKING AGREEMENT given in the foregoing footnote. When the men learned of this agreement, they demanded its withdrawal and cancellation by the company, on the ground that it constituted a violation of the agreement of August 6 inasmuch as

any person who signed said (individual) agreement could not expect any higher wages than those specified in the schedule which is made part of said contract, and that if the signer took any steps to better his working conditions or obtain higher wages during the term of said agreement it would be a breach of said agreement; and that Mr. Hedley admitted that for such breach of agreement the employe so signing would be subjected to discipline.

The company refused to withdraw the individual Working Agreement from circulation among the men on the Interborough. The men on the surface lines thereupon renewed their strike without waiting to submit their case to arbitration. The New York Railways Company, jointly with the Interborough, held this to be a breach of the agreement of August 6, and declared their determination to have nothing further to do with the Amalgamated. After an interval, the Amalgamated agreed to submit the entire controversy to arbitration; but the companies asserted that the time for arbitration had passed and that they were resolved upon a war of extermination against the Amalgamated. Committees of citizens waited upon the companies; the mayor and Commissioner Straus interceded with them,—all to no purpose.

On September 12, the mayor and the Public Service Commission issued a joint statement in which they declared:

We believe that the agreement has not been destroyed by the acts of the two parties. Though it has been violated, the moral obligation to maintain it still continues. It was deliberately made, and guaranteed by the mayor of the city of New York and the chairman of this commission. The public was also a party to this agreement. Whatever the two parties may do, they cannot deprive the public—the third party—of its rights under the agreement. Both parties asked for and received the sanction and guarantee of the city of New York and the Public Service Commission that each would perform its duty.

In the light of the fact that the agreement of August 6 is today as if it had never been written, signed and guaranteed, this statement of the two foremost representatives of the public is one of the most humiliating confessions on record of the impotence of the third party. This constitutes the paramount issue of this strike,—

and of all other strikes. The public is impotent because it is ignorant of the basis of industrial controversies. It is ignorant because it has heretofore utterly neglected the problems of labor administration and the human factors involved in the operation of public utilities. It is impotent because it has devised no method of formulating its own judgments or of making those judgments effective. The paramount issue raised by this, as by all other industrial disputes, is whether the public shall continue to remain ignorant, and impotent,—and whether it shall continue to be the victim of its own ignorance, indifference and impotence.

THE PRESENT TREND OF REAL WAGES

BY I. M. RUBINOW,

Executive Secretary, American Medical Association.

About two years ago the writer published a brief article under the title "The Recent Trend of Real Wages" in the *American Economic Review* for December, 1914. The article and its conclusions at that time happened to attract a good deal of attention among American economists and statisticians, and yet there was very little that was striking or unexpected either in the conclusions or in the statistical methods employed. Even an undergraduate student of economics is familiar with "the index number of the purchasing power as measured by retail price of food," published by the United States Bureau of Labor Statistics for years 1890 to 1907.

For various reasons the publication of that index number of what might be termed "real wages" was discontinued by the federal Bureau of Labor Statistics, and all that the writer had endeavored to accomplish was to bring that index up to date by combining the available data on prices and wages published by the same government bureau.

Naturally the statistical machinery available to an independent student is very much more limited. Any careful weighting of the data had to be abandoned, and perhaps the only contribution for which some credit may be claimed was in establishing the thesis that the influence of the various methods of weighting was so slight that a simple averaging could be expected to produce at least approximately accurate results. Assuming the average real wage between 1890 and 1899 to be 100, the purchasing power of weekly wages measured by retail prices of food during the years 1900 and 1912 was found to be as follows:

1900.....	100.2	1907.....	97.7
1901.....	96.8	1908.....	93.0
1902.....	94.3	1909.....	89.4
1903.....	97.3	1910.....	87.2
1904.....	96.0	1911.....	88.9
1905.....	98.6	1912.....	85.3
1906.....	98.0		

On a basis of these figures the writer ventured the statistical deduction that between 1907 and 1912 the purchasing power of weekly wages, or the real weekly wages, has decreased from 97.7 to 85.3, 12.4 points or 12.7 per cent. The study concluded as follows:

With fewer children to support, with women young and old, married or unmarried, contributing to the family budget, or at least partially relieving it of a certain share of the burden, the wage workers of America were able to raise the standard of living to lead a somewhat easier life. But this does not mean a larger return for their labor. As far as the purchasing value of the wages is concerned it has probably increased slightly (though by no means as rapidly as is asserted) between 1870 and 1890, but since 1900 it has been rapidly falling. The purchasing power of wages in 1913 is not much higher than it was in 1870.

And yet the increase in the productivity of labor during the last three decades, especially as measured in consumers' values, was enormous. It is not at all necessary to quote figures to prove this contention. The conclusion is inevitable that a much smaller share of the value reaches the wage worker now than did twenty or thirty years ago.

These conclusions were on the whole accepted without much controversy by American statisticians. Professor John H. Gray in his presidential address before the twenty-seventh annual meeting of the American Economic Association quoted that article in support of the following statement: "At the same time that this influx of women and children into the industries is taking place, real, as distinct from money wages, have constantly declined since 1906." Professor Walter E. Clark in his book *The Cost of Living*, Professor E. D. Durand in his presidential address before the American Statistical Association in December, 1915, Dr. B. S. Warren of the Public Health Service in his valuable study of *Health Insurance*, Professor D. H. L. Weld in his book on *Marketing of Farm Products*, Mr. William English Walling in the *Inter-collegiate Socialist* for December, 1915, *The New Review* for October, 1915, Professor W. J. Lauck in the *Locomotive Engineers' Monthly Journal*, Professors Irving Fisher, Walter Wilcox and Robert E. Chaddock in personal correspondence have all expressed their agreement with the conclusions reached, which as a matter of fact, represented no more than a statistical demonstration of the quite obvious trend of price and wage movements. It was therefore quite unexpected, and I believe on the whole, unfortunate that in a public hearing before the committee on labor of the United States House of Representatives in Washington in a discussion of social insurance this obvious

statistical deduction was made the subject of a very emphatic attack by the venerable President of the American Federation of Labor in language of which the following is fairly typical:

The statement to which I took exception, and which I now emphasize, was a subtle blow at the life and vitals of the trade union movement and trade union activity. If, as Dr. Rubinow's charge implies, trade union work has brought about this one condition, that wages have not kept pace with the cost of living; if despite trade union activity in the past twelve years, there is 15 per cent less of purchasing power of the necessities of life, then the whole work of the trade union movement is wrong and must of necessity be a failure. So far as I am concerned I will say this, that if I believed that to be a fact I would not give my time and my life to trade union work and I would not advise any man or woman to join a trade union. If the conditions of the workers are worse than they were twelve years ago, as I say, our cause has been a failure.¹

Is it necessary to state here that there is absolutely no justification for such interpretation of the statistical statement? It is obvious that the trade union movement, no matter how useful, cannot always claim omnipotence and the only deduction to be made from those statistical data is that the pressure of higher cost of living was so terrific that even trade union activity was unable to overcome its effect.

An effort at an accurate determination of the movement of real wages since 1912 to 1916 continues to present, especially to the private statistician, such serious difficulties that the work is not undertaken with a great deal of confidence. While the Bureau of Labor Statistics published a large amount of data on wages and prices, the methods of statistical presentation have been changed so radically that an effort to continue the old index of real wages meets various difficulties.

There is no intention to criticise here the change of these methods because they have been undertaken under such high expert advice as only Professor Wesley Mitchell of Columbia University was able to give, and therefore the change in these methods must at present be accepted. But the annual change of base and a good many other minor differences make comparisons more difficult and the results only approximately correct.

¹ Hearings before the committee on labor, United States House of Representatives, 64th Congress, First Session, on H. J. resolution 159, Commission to study social insurance and unemployment, April 6, 1916, page 151.

Moreover, there may be less need for private reconstructing indexes. In one of its recent bulletins² the United States Bureau of Labor Statistics has again for the first time in many years presented the index number of purchasing power of wages for recent years. Two tables appear in that bulletin, conforming in general to the old method of computing the index number of purchasing power of wages with the following three differences:

1. The comparison is limited to union wages only.
2. The purchasing power for 1907 is taken as a basis of 100 instead of the average purchasing power during 1890 to 1899, and
3. Decimal points have been omitted to avoid the appearance of greater accuracy than could be claimed for the figures.

These tables give the index of the rate of wages per hour, at full time hours per week, rate of wages per week, full time, retail prices of food and purchasing power measured by retail prices of food, of rates of wages per hour, and of rates of wages per week, full time. It is now officially shown that while the rate of wages per hour from 1907 to 1915 for union labor has increased from 100 to 114, the full time hours per week have decreased from 100 to 97, thus reducing the increase of rate of wages for a full time week from 100 to 112. In the meantime the retail prices of food have increased from 100 to 124. Thus the purchasing power of rates of wages per hour has decreased from 100 to 92, and the purchasing power of rates of wages per week has decreased from 100 to 90. This last index may be shown in detail:

PURCHASING POWER OF RATES OF WAGES PER WEEK, MEASURED BY
RETAIL PRICES OF FOOD

1907.....	100	1911.....	94
1908.....	98	1912.....	90
1909.....	94	1913.....	90
1910.....	92	1914.....	89
		1915.....	90

This table evidently corroborates the conclusions of my earlier article.

The data above refer to organized labor only. From other publications of the same bureau some information may be obtained concerning movement of wages in various other industries. Bulletins No. 177, 178, 187 and 190 have been utilized to bring together

² No. 194, Page 21.

indexes of weekly earnings in the following industries: hosiery and underwear, boots and shoes, men's clothing, cotton goods manufacturing, cotton goods finishing, woollen goods manufacturing, silk goods manufacturing.

The movement of wages during the last five years is shown in the following table:

	KNIT GOODS	BOOTS AND SHOES	MEN'S CLOTH- ING	COTTON MANU- FACTUR- ING	COTTON FINISH- ING	WOOLEN MANU- FACTUR- ING	SILK	SIMPLE AVER- AGE
1910	89	92		90		92	93	91.2
1911	89	94	91	90	97	92	94	91.9
1912	93	93	93	98	99	102	97	95.1
1913	98	100	101	99	98	100	102	99.7
1914	100	100	100	100	100	100	100	100.0

I prefer at this time not to make any effort to reconstruct all the data so as to fit them in with the old index number of real wages from 1890 to 1907. This would require a great many statistical recomputations which would obscure the data as found in the official publications. A simple average of those seven industries was, however, computed and it indicated that on an assumption of 100 as the average wage in 1914, the average wage of 1910 is only 91.2, showing an increase of 8.6 per cent during the four years. During the same period union wages have increased from 104 to 111, or about 7 per cent, while the retail prices of food have increased from 113 to 125, or over 10 per cent.

No great degree of statistical accuracy should be claimed for the comparison of those three data. But it seems quite obvious from the examination of those figures, and also from the more careful examination of the great wealth of retail quotations of wages in the numerous bulletins, that there has been a further slight decline in real wages even in the last three or four years. It is possible that on the whole wages may have held their own between 1912 and 1916, as measured in purchasing power of food. What the phenomenal increase of prices during 1916 has resulted in, it is yet too early to ascertain. Both price and wage movements since the beginning of the war must be admitted as abnormal, and perhaps no general deductions of economic tendencies could be lightly drawn therefrom. But the loss of the previous decade is now

universally admitted and it is doubtful whether even the abnormally high wages of a few industries supported by war demands and even the discontinuance of competition from the flood of emigrants have enabled the wider circles of the American working class to recover any of the loss sustained during the preceding decade.

THE EFFECTS OF THE LEGAL MINIMUM WAGE FOR WOMEN

BY A. N. HOLCOMBE,

Massachusetts Minimum Wage Commission.

The first minimum wage law adopted in the United States was the Massachusetts act of 1912. In the following year eight other states adopted minimum wage laws.¹ In 1915 two more states were added to the list.²

The laws of these eleven states are of three types. First, in Utah and Arkansas a uniform minimum rate for experienced women is fixed in the statute itself. Lower rates are fixed for learners and apprentices. Secondly, in the other states no minimum rate is fixed by law. In seven of these states the determination of suitable minimum wages for women in different industries is entrusted to a special commission, sometimes called a minimum wage commission and sometimes called an industrial or industrial welfare commission. These commissions are charged with the duty of fixing the minimum in each trade in accordance with the needs of the employes and the financial condition of the industry. The minimum rates thus determined by them must be paid by the employers. Thirdly, there are two states, Massachusetts and Nebraska, where minimum wages are fixed by or under the direction of commissions, but where the commissions have power only to recommend the acceptance of their determinations by employers. Enforcement of the commissions' recommendations in these states is to be secured by public opinion, and the commissions are consequently authorized to make public the names of employers who follow and who do not follow their recommendations.

In Arkansas, according to the act passed in 1915, a minimum rate of \$1.25 a day for experienced workers and of \$1 per day for inexperienced workers was established. These rates apply to women and girls in practically all occupations except those employed in cotton factories and in the gathering or preservation of fruits and

¹ California, Colorado, Minnesota, Nebraska, Oregon, Utah, Washington and Wisconsin.

² Arkansas and Kansas.

perishable farm products, and apply only to establishments employing more than three such persons. The Minimum Wage Commission is also authorized to establish rates for employes of hotels, restaurants and telephone companies, and has power to raise or lower the minimum rates in specific industries where after investigation it is found that the wage established by statute is above or below the necessary cost of living. Under these provisions of the act, special rates have been established for employes of several telephone and telegraph companies, and for inexperienced workers in retail stores. Plans for the establishment of special rates for hotel and restaurant workers are under consideration by the commission. It is reported that litigation to test the constitutionality of the statute was commenced in August, 1915, and that the law was declared unconstitutional by one of the lower state courts. No decision has as yet been rendered by the Arkansas Supreme Court.

In California the law establishing an industrial welfare commission went into effect in August, 1913. It was not, however, until April, 1916, that the commission's first wage determinations went into effect. These rates apply to women employed in canneries, both piece and time workers. The time schedule requires the payment of 16 cents an hour to experienced and 13 cents an hour to inexperienced workers. Piece workers of ordinary ability are expected to make equivalent amounts. The commission is considering the establishment in the near future of rates for women employed in mercantile establishments and in the clothing trades. According to a recent statement by Mrs. Katherine P. Edson, a member of the commission and its executive officer, it is stated that:

Not a single cannery that paid in excess of the minimum wage has lowered its wage scale, while all of the canneries which paid less than what the commission fixed as the minimum wage, have raised their pay to meet the minimum rate.

The State Wage Board of Colorado was not appointed until March, 1914, although the law establishing the board went into effect in May of the preceding year. The bill creating the board, which was practically only a two-year investigating commission, provided no adequate means or methods for the regulation of wages. The powers of this board expired on August 15, 1915. A new bill, creating a permanent commission, was passed by the legislature of 1915, but was vetoed by the governor.

A minimum wage law was passed in Kansas in 1915. Special boards have been organized to consider the establishment of minimum rates of wages and maximum hours of labor for women employed in laundries and mercantile establishments, but no wage determinations have yet been issued by the Industrial Welfare Commission.

In Massachusetts, minimum rates have been recommended for four industries, brush factories, laundries, retail stores and women's clothing factories. The recommended rates for experienced workers were 15½ cents an hour in brush factories, \$8 a week in laundries, \$8.50 a week in retail stores, and \$8.75 a week in women's clothing factories. Lower rates were recommended for learners. The rates recommended for women's clothing factories have not yet gone into effect. Those recommended for brush factories and retail stores were generally accepted by employers, and have been in effect for two years and a half and one year respectively. The rates recommended for laundries were disregarded by employers. This caused litigation which is still pending in the state supreme court.

The Minnesota Minimum Wage Commission was established in June, 1913. In October, 1914, it issued orders providing the following minimum rates of pay for experienced women: (1) in cities of the first class (the Twin Cities), mercantile establishments, etc., \$9, manufacturing establishments, etc., \$8.75; (2) in cities of the second, third and fourth classes, mercantile, \$8.50, manufacturing \$8.25; (3) in smaller cities and towns, both mercantile and manufacturing, \$8. These orders do not apply to learners and apprentices. Before these orders became effective, a temporary injunction was issued by the Ramsey County District Court restraining the commission from enforcing its orders or performing any other official acts. The case was carried before the Supreme Court of the state and argued in January, 1915. No decision has as yet been announced.

No wage determinations have yet been made by the Nebraska Minimum Wage Commission. The members of the commission were not appointed for over six months after the law went into effect and no appropriation was made for their work until 1915 when the legislature voted the sum of \$500.

In Oregon, minimum wages were promptly prescribed by the

Industrial Welfare Commission for experienced and inexperienced women in all industries. The prescribed rates have recently been revised. The original rates were \$8.25 per week to \$40 per month for experienced workers in different industries and localities, and \$6 per week for learners. The present regulations³

provide for a minimum weekly wage rate for experienced adult women workers, ranging from \$8.25 in the smaller towns of the state to \$9.25 in certain occupations in Portland. One feature of the revised orders is a provision for a rise every four months during the year in the wage scale allowed for apprentices.

Certain Oregon employers promptly instituted a test case to determine the constitutionality of the Oregon mandatory law. This case (*Stettler v. O'Hara*) was decided by the Oregon Supreme Court in March, 1914, in favor of the constitutionality of the law. It was then appealed to the United States Supreme Court where no decision has yet been reached.

In Utah a minimum wage of \$1.25 per day for experienced adult women, 90 cents a day for adult learners and 75 cents a day for girls under 18, was fixed by law in 1913 for women and girls in all industries throughout the state. The state commissioner of labor stated in 1914⁴ that the law has increased the wages of those who most needed it, that the minimum wage has not tended to become the maximum, and that 90 per cent of the employers are satisfied with the law and its enforcement.

The Industrial Welfare Commission of Wisconsin, which is intrusted with the enforcement of the minimum wage law passed in 1913, has not yet fixed any minimum rates. It is understood to be awaiting the decision of the United States Supreme Court in the Oregon minimum wage case before taking definite action.

In Washington, practically all the industries of the state have been covered by orders which provide minimum wage rates for experienced adult women of from \$8.90 to \$10 per week and lower rates for minors and apprentices. The lowest rate for minors is \$6 per week.

The states in which the effects of the minimum wage have been most carefully studied are Oregon and Massachusetts. The United States Bureau of Labor Statistics caused an elaborate study to be

³ *Monthly Review of the United States Bureau of Labor Statistics*, Oct., 1916, p. 484.

⁴ *United States Bureau of Labor Statistics Bulletin No. 167*, pp. 75-76.

made of the effects of the minimum wage in Oregon, which was published about a year ago as Number 6, in its *Woman in Industry* series. This investigation showed, if not final results, at least certain general tendencies. The rates of pay for women as a class were found to have increased. While formerly 26 per cent of the girls under 18 received rates of less than \$6 a week, after the minimum wage went into effect less than 1 per cent were paid below this rate. Furthermore, more girls under 18 years received over \$6 a week after, than before the minimum wage was established. Among the experienced women, not only the proportion getting not less than the legal minimum, but also the proportion getting more than the legal minimum, was found to have increased. Employment was more regular than before, but the total number employed showed a falling off. The decrease in the number of women employes, however, was believed by the federal investigators to be largely accounted for by other factors than the establishment of a minimum wage, notably by the business depression which set in at about the time the minimum wage was established, and which had not passed at the time the federal investigation was made. The minimum wage did not cause the replacement of women by men, nor did it result in any decrease of the efficiency of those affected by the wage determinations. In other words, while the Oregon experience with the minimum wage at the time the federal investigation was made was not conclusive, it did show that some of the common objections to the minimum wage for women by law are without foundation.

In Massachusetts the minimum wage has now been in operation for more than two years in the brush industry and for one year in retail stores. After the minimum wage had been in operation in the brush industry for a year the commission made a careful investigation for the purpose of determining its effects. This investigation showed: (1) that the establishment of the minimum wage in the brush industry had been followed by a remarkable increase in the number of women employed; (2) that the employment of women at ruinously low rates had been practically stopped; (3) that the proportion of women employed at more than the prescribed minimum rate had greatly increased, and (4) that this had been accomplished without putting an unreasonable financial burden upon the industry. In short, the evidence showed that the establishment of a minimum wage had been followed by the desired results both in

the industry as a whole and in every individual establishment where the management had been willing to give it a fair trial.

Shortly after the minimum wage was put into effect in retail stores the commission began a similar investigation for the purpose of ascertaining the results in that industry. This investigation, which has just been completed,⁵ shows:

1. That acceptance of its recommendations concerning the wages of women and girls employed in retail stores entailed increases of wages for a greater or less proportion of such employes in nearly all retail stores except those employing women for office work only. Altogether, 90 per cent of the sixteen thousand female employes in nearly one thousand establishments covered by the commission's investigation were employed in stores where wage increases were necessary, if the commission's recommendations were to be followed.

2. That the proprietors of the larger retail stores, with few exceptions, have accepted its recommendations and are attempting in good faith to follow them. The proprietors of the smaller stores are also generally following the commission's recommendations, although the proportion of exceptions is greater than among the proprietors of the larger stores. Altogether only 6 per cent of the women and girls employed in stores covered by the commission's investigation are now receiving less than the minimum wages recommended by the commission.

3. That on or about January 1, 1916, when the commission's recommendations became effective, the wages of nearly 40 per cent of all the women and girls employed in over nine hundred stores, from which information was obtained, were raised. In stores where wages were raised in pursuance of the commission's recommendations, the percentage of wage increases was 46 per cent, in stores where the wages previously paid were not less than the minimum rates recommended by the commission, the percentage of wage increases was 20 per cent, in stores where lower wages were previously paid and where there was no attempt to follow the commission's recommendations, the percentage of wage increases was also about 20 per cent. Altogether nearly six thousand women and girls received increases of wages, more than nine-tenths of whom were employed in stores which raised wages in pursuance of the commission's recommendations.

4. That the increases of wages amounted in a majority of cases to at least a dollar a week and in many cases to two or three

⁵ Massachusetts Minimum Wage Commission, *Bulletin No. 12*. Preliminary Report on the Effect of the Minimum Wage in Massachusetts Retail Stores. Boston, 1916.

dollars or more. There were comparatively few cases in which the wages of women receiving more than the minimum rates recommended by the commission were reduced. The number of such cases, moreover, was less in proportion to the total number of employes in stores following the commission's recommendations than in those not following them.

5. That the total number of women and girls employed in those stores for which the commission obtained information covering the three years 1914, 1915 and 1916 decreased during that period by about 10 per cent. Analyzed according to occupations, the decrease was least among the saleswomen to whom the \$8.50 minimum rate recommended for experienced employes most generally applied. It was greatest among the counter-cashiers, examiners, messengers, and bundlers, comprising for the most part young and inexperienced persons. As is more fully explained in the commission's report, there are several factors besides the introduction of the minimum wage to account for the decreased employment of this class of persons.

6. That despite the decrease in their numbers the total sum paid in wages to the women and girls employed in these stores was greater in 1916 than in either of the preceding years.

7. The investigations of the committee on the minimum wage of the Boston Social Union, an abstract of whose report is appended to that of the commission, show that the total earnings in 1916 of those women and girls, who are known to have lost their positions in retail stores in consequence of the introduction of the minimum wage and to have been compelled to seek other employment, will be greater than would have been the case, had they retained their positions in the retail stores at the wages they had been receiving.

8. That in the establishments which did not raise wages in pursuance of the Commission's recommendations, over 48 per cent of the female employes were still paid lower rates than those recommended by the Commission.

Upon these findings, as set forth in full in its report, the commission bases the following conclusions:

1. That most experienced women employed in retail stores in Massachusetts are now receiving not less than the recommended rates, and that most learners and apprentices are now employed under more favorable conditions and with better prospects than ever before.

2. That no such general increase in wages as has actually occurred would have taken place but for the operation of the minimum wage law.

3. That the decrease in the total number of women regularly employed in retail stores in 1916 as compared with the preceding years was mainly produced by other causes than the introduction of the minimum wage.

4. That those whose loss of employment may be ascribed to the minimum wage are now for the most part better situated than they were in their former positions.

5. That there is no tendency for the minimum wage to become a maximum.

6. That the action of those proprietors of retail stores who have accepted the commission's recommendations, has been justified by the results, as far as now known, and that unless good reasons for not so doing be shown, their example ought to be followed without further delay by all other proprietors of retail stores.

The experience with the minimum wage in the states where it has received a fair trial seems to indicate that the good results anticipated by the original advocates of the legal minimum wage for women are being secured. It is deeply to be regretted that the enforcement of the various laws has been greatly hampered by litigation. The constitutionality of the Oregon law was first challenged more than three years ago. Though the act was sustained by the Supreme Court of the state the employers appealed to the Supreme Court of the United States for a final decision. This decision should serve as a guide to the administrators of minimum wage laws not only in Oregon but in all states which have laws of the same type. Even in Massachusetts and Nebraska, where the commissions have power only to recommend the payment of the minimum rates, the courts seem disposed to await the decision of the Oregon case before determining for themselves the constitutionality of their own statutes. The Oregon case was argued before the United States Supreme Court in December, 1914. Eighteen months passed before the Court took any action, and then in June, 1916, it ordered a reargument of the case sometime after the presidential election. At the present writing the case has not yet been reargued. Pending a final decision by the Supreme Court, the efforts of the state commissions in most states to enforce the laws are seriously or entirely thwarted. To this long and unfortunate delay in deciding the constitutionality of the Oregon minimum wage law must be mainly ascribed the lack of more complete evidence of the practicability and wisdom of the legal minimum wage for women.

SOCIAL INSURANCE

BY JOHN B. ANDREWS,

Secretary, American Association for Labor Legislation.

Probably no human device has done more to substitute security for uncertainty in the economic affairs of our complex modern life than the device of insurance. Property is protected by insurance against fire, burglary, or loss at sea. Persons with comfortable incomes insure themselves or their dependents against the financial results of accident, ill health, or death. But wage-earners, who are largely without property and whose incomes are too small to provide for adequate insurance in a commercial company, have until recently been exposed without protection to the winds of adversity.

One of the strongest evidences of the profoundly altered attitude of society toward its members is the rapid spread of socially encouraged provision for the insurance of wage-earners against the five great hazards which continually stare them in the face: industrial accident, illness, unemployment, old age and invalidity, and death. There is hardly a civilized country whose laws do not establish protection against one or more of these risks. Because it covers the mass of the people, and because governmental action is necessary to its initiation and operation, this type of insurance has come to be generally known as "social insurance."

In the United States in the short space of seven years thirty-five of our states and territories, and the federal government for its own half-million employes, have enacted workmen's compensation legislation, which guarantees to the injured wage worker or his family financial indemnity for industrial accident without the wasteful and contentious methods of the old employers' liability system. Discussions on old age and on unemployment insurance have been frequent, and one state already has a state life insurance fund in operation; but undoubtedly the next big step in social legislation in America is health insurance.

SICKNESS IN THE UNITED STATES

Six years ago, when an expert committee of the Association for Labor Legislation, composed of statisticians, actuaries, physicians

and economists, sought in a memorial to the President of the United States to answer the question, "How much sickness is there in the country?" they found themselves baffled by lack of data. The best they could do was to turn to Germany, where, under a national health insurance system, excellent records had been accumulating for more than twenty years. Upon the basis, then, of German experience, our American experts made the following estimate:

Estimate of Sickness and Its Cost among Occupied Males and Females in United States, 1910 (\$3,500,000)

Estimated number of cases of sickness, on the German basis of 40 per cent of the number of persons exposed to risk	13,400,000
Estimated number of days of sickness on the German basis of 8.5 days per person per annum	284,750,000
Estimated loss in wages at an average of \$1.50 a day for 6/7 of the 284,750,000 days	\$366,107,145
Estimated medical cost of sickness at \$1 a day for 284,750,000 days	\$284,750,000
Estimated economic loss at 50 cents a day for 6/7 of the 284,750,000 days	\$122,035,715
Total social and economic cost of sickness per annum	\$772,892,860
Estimated possible economic saving in the health of individual workers on a basis of 25 per cent reduction per annum	\$193,223,215

Despite the discussion these figures produced when they were made public, they are now seen to have been very conservative. On the basis of its study for the federal Commission on Industrial Relations, of nearly 1,000,000 workers in representative occupations, the United States public health service estimates that each of this nation's 30,000,000 wage-earners loses an average of nine days annually because of sickness. This amounts, for the nation, to an annual loss of nearly 740,000 years. Everyone who has ever examined the records of our charitable societies will roundly endorse the commission's statement that "Much attention is now given to accident prevention, yet accidents cause only one-seventh as much destitution as does illness." No fewer than 3,000,000 persons, it was stated, are ill on any one day. The consequent wage loss is put at \$500,000,000 a year, while the expense of medical treatment and supplies runs up to \$180,000,000 in addition.

Among women the rate of sickness is higher than among men. In Rochester, N. Y., for instance, a careful survey of its industrial policyholders by the Metropolitan Life Insurance Company showed

that of each 1,000 males, aged fifteen or more, 23.3 are so ill at any one time that they are unable to work, while females of the same age similarly affected number 25.7 out of every 1,000. This means an average annual disability rate of 8.5 days for men and 9.4 days for women.

In America, as abroad, infant mortality among wage workers is excessively high. In Johnstown, Pa., the United States Children's Bureau found the infant mortality rate five times as high in the ward where the poorest paid workers lived as in the wealthiest section. In families where the father received \$1,200 or more a year, or had "ample" income, the infant death rate was 84 per 1,000, but when the father received less than \$10 a week or \$521 a year this death rate leaped to 255.7 per 1,000. A similar study carried on in Montclair, N. J., revealed precisely the same tendency of a soaring infant death rate with a sinking of the family income.

A striking phenomenon noted as yet only in this country is the rapid decline in the expectation of life for adults. Comparison of Massachusetts statistics for 1880 with those for 1910 shows that within the present generation the expectation of life for men aged twenty-five or over has fallen six months to two and one-quarter years according to age, and that for women aged thirty-five or over it has dropped nine months to two years. This fact should be remembered in connection with the current statement that the span of life in America is increasing. It is true that babies and children have a better chance of reaching maturity than formerly; but once arrived at maturity their chances for attaining a ripe old age are unmistakably declining.

MEETING THE WAGE LOSS

Estimates of average annual wages in the United States, whether made by radicals or by conservatives, hover about the \$700 mark. At the same time the minimum necessary expense of maintaining a family is generally accepted as being between \$900 and \$1,200. Obviously there is little margin here for tiding a family over the breadwinner's disability due to illness.

A federal study of 31,481 charity cases among both immigrants and native born in forty-three cities showed that illness of the breadwinner or of other members of the family was "the apparent cause of need" in 38.3 per cent of the cases. Thirty-seven per cent of the

families assisted by the New York City charity organization society are dependent because their wage-earners are disabled by sickness, while two-thirds to four-fifths of the expenditure of the New York association for improving the condition of the poor is for relief necessary because of illness. Individual savings, commercial health insurance, trade union benefit funds, and "establishment" relief associations inspired and controlled by employers have alike signally failed to avert the financial distress caused by working class sickness. America presents no exception to the finding of Sidney and Beatrice Webb, that "In all countries, at all ages, it is sickness to which the greatest bulk of destitution is immediately due."

INSUFFICIENCY OF MEDICAL CARE

Not only are wage-earners unable without outside assistance to provide a living for their families during a period of severe illness, but they are often unable even to meet the expense of adequate medical care. An analysis was made last year of the financial condition of 75,000 applicants to the Boston, Mass., dispensary. Of all the families with which the dispensary was in touch, 37 per cent lived on an income, including the wages of children, of \$600 a year or less; 49 per cent on \$700 or less; 70 per cent on \$800 or less; and 83 per cent on \$1,000 or less. Nevertheless, states the dispensary,

It is a general opinion among students of wage-earners' budgets that even small families in this vicinity living on \$1,000 or less should not be expected to purchase more medical service than that necessary to childbirth and acute illness in the home.

In New York City forty-six hospitals which belong to one association cared during the year 1913-1914 for 69,474 patients (57 per cent of their total) who paid nothing for their treatment. The dispensaries attached to these hospitals were attended during the same year by 603,871 patients, who made a total of 1,843,011 visits. In Greater New York as a whole the annual number of dispensary treatments runs close to 5,000,000. Yet, states the hospital association referred to, "At present only one in ten persons seriously ill or injured in this city gets treated at any hospital. For lack of proper treatment thousands lose their health and efficiency, and become a burden to the community." In the Rochester sickness survey it was found that 39 per cent of the cases of sickness had no physician in attendance.

Within the last fifteen years the number of dispensaries in this country has increased sevenfold, visiting nurses' associations have been developed in most large cities, and more careful midwifery regulations have been adopted in several states. Yet the facilities available to wage workers for the prompt diagnosis and careful treatment of illness remain shockingly inadequate.

MOVEMENT FOR HEALTH INSURANCE

Brought face to face with similar facts, Germany adopted the first nation-wide health insurance system in 1883. Other countries followed, notably Great Britain in 1911, until today universal health insurance is established in no fewer than ten of the leading continental states. In America the movement initiated by the Association for Labor Legislation in 1912 has enlisted the encouragement of the American Medical Association, the American Academy of Medicine, state medical societies, the United States public health service, several influential employers' associations, the National Association of Manufacturers, and a large number of representative trade unions. State social insurance commissions in California and Massachusetts have been studying the question from all sides, and will report to their legislatures in January, 1917. Preparations are under way for the introduction of health insurance measures in the leading industrial states.

The standard bill drafted by the American Association for Labor Legislation combines the features pronounced best by practical experience of Europe. It covers all manual workers, and all other employees receiving \$100 a month or less. Insurance is made compulsory because only in this way can all those who need the assistance be reached by it. Even in Great Britain, for example, where voluntary health insurance through the "friendly societies" and the trade unions had reached an exceptional development, only 5,500,000 wage-earners were covered, whereas the compulsory national insurance act of 1911 at once applied to 13,742,000 workers, or more than twice as many. In addition to its inclusiveness, compulsory insurance reduces administrative cost to a minimum. All the expensive and tedious work of convincing a man that he needs to take out a "policy" is avoided. Persons in a given area are attached to the same fund, and this localization of membership still further increases the ease of supervision and reduces expense. Local

administration in the Leipzig sick fund costs less than 10 per cent of the total expenditure, whereas in England voluntary burial societies operating all over the kingdom spend from 37 to 48 per cent of their income for administration. A further benefit of localized membership under a compulsory system is the improved administration of medical care which it makes possible.

For the insured, the standard bill provides all necessary medical, surgical and nursing care up to twenty-six weeks a year. This is far above what is at present enjoyed by the wage-earner, who is too often compelled to accept treatment from charity or to forego it altogether. The family of the insured will also be provided with requisite medical aid, which will greatly reduce the expenditure for doctors' bills on an individualistic basis, and assure medical advice when it is needed. All necessary medicines and surgical supplies will also be furnished, up to \$50 a year. The physicians' interests are carefully guarded by provisions which it is not necessary to go into here.

A cash benefit of two-thirds of wages is established, during disability, up to twenty-six weeks yearly. This amount is not likely to cultivate malingering, and on the other hand it is not so small as to cause a breakdown of family standards. Massachusetts, New York and Ohio, as well as the United States government, it will be remembered, already award 66 $\frac{2}{3}$ per cent of wages in workmen's compensation cases, and percentages close to this are granted by several other states.

Important among the provisions of the bill is maternity benefit. The prohibition placed in some states upon the industrial employment of women just before or after childbirth emphasizes the desirability of granting a cash benefit during her inability to work, just as if this were caused by illness. Moreover, the annual death in the registration area of more than 10,000 mothers from causes connected with childbirth, and of 52,000 infants from diseases of early infancy—many of which are preventable—make it imperative to provide more adequate care. Maternity benefit is included in every European health insurance system.

A fourth benefit proposed is a funeral benefit of \$50. This type of relief is at present probably the most urgent need among wage workers. In 1911 thirty-two industrial insurance companies in the United States had about 24,700,000 policies in force, on which they

reaped \$183,500,000 in premiums. The losses paid out amounted to only a little over \$50,000,000, most of which was utilized for funeral expenses. Under the health insurance plan adequate burial could easily be provided for, while the money now expended by working people for mere burial insurance would go far toward paying their share of the contribution for all the benefits enumerated.

The moneys to provide the benefits just described are to be raised by joint contributions, two-fifths by the employer, two-fifths by the employe, and one-fifth by the state. It is felt that a certain responsibility for ill health rests upon all three of these parties, and that justice no less than the purpose of bringing this responsibility home to the minds of all concerned can best be served by joint maintenance of the insurance fund. For workers receiving below \$9 a week, upon whom even the two-fifths contribution would be an undue burden, the rate is progressively reduced, until at \$5 a week the employe pays nothing. The total amount raised through these contributions must always be sufficient to provide the minimum benefits described; but if a fund wishes to, it may under careful supervision charge higher amounts and pay proportionately increased benefits.

For the administration of the insurance a system of local funds has been devised, each under democratic control by committees and directors chosen half and half from employers and employes. A state social insurance commission will supervise the workings of the funds.

PREVENTIVE EFFECT OF HEALTH INSURANCE

So far health insurance has been discussed only in its relief and curative aspects. But it is an axiom in the business world that no sooner is an adequate system of insurance set up than it incites efforts for the reduction of the risk against which it offers protection. Fire underwriters not only insure against fire—they inspect buildings and raise the standards of safety against conflagration. Workmen's compensation not only secures indemnity to the injured workman or his orphaned children, but it provokes a movement for "Safety First!" Large industrial concerns such as the General Electric Company and the American Locomotive Company are now proudly preventing from 30 to 60 per cent of the accidents which before the coming of compensation they accepted as "inevitable." In the same way the proponents of health insurance confidently count

on the adoption of the standard bill to launch a mighty movement for "Health First."

As has been said, employers, employes and the state are today jointly responsible for sickness. Persistent monthly levies upon their several pocketbooks to meet the expenses of the prescribed benefits should rouse a campaign for industrial and social sanitation such as no army of factory and housing inspectors could ever hope to. Under its influence we may expect to see industrial poisons controlled, the work-day and speeding-up brought within physiological limits, habits of personal hygiene remodelled, and preventive medicine flourish, beyond the highest hopes of an older generation of progressive thinkers.

THE AMERICAN OUTLOOK

The California and the Massachusetts legislative commissions which are now studying health insurance are also instructed to go into other fields of social protection of wage-earners, such as insurance against unemployment and old age. A resolution for a similar commission under congressional auspices was the subject last April of intensely interesting hearings before the house committee on labor. Numerous state and national political platforms pronounce in favor of various sections of the program, and there seems to be little room for doubt that individualistic America is at last about to enter on a comprehensive campaign for the reduction of some of our worst industrial evils through the method of social insurance with its effective coöperative pressure.

WELFARE SERVICE FOR EMPLOYES

BY ALEXANDER FLEISHER, PH.D.,

Supervisor, Welfare Division, Metropolitan Life Insurance Company, New York.

Within the last fifty years, the development of new industries and the expansion of old ones have necessitated concentration into larger industrial units. The small factory and workshop, the individual proprietor and his few employees, are becoming less frequent components of modern business. With this increase in the number of workers and the amount of capital under one management, a development that has called for leaders of constructive initiative, has come a change in the conditions surrounding the worker.

This change in working conditions has been of two kinds,—that forced upon the employer and that voluntarily granted by him. The first grouping comprises those changes brought about through legislation,—such as laws limiting the hours of labor, those providing for the sanitation of factories, for compensation for industrial accidents, —and those brought about by employees themselves through strikes and through arbitration and conciliation.

Our immediate concern has to do with the second grouping, those changes voluntarily granted by the employer. Such efforts on the part of some employers to improve the conditions of their employees in the workshop and in their homes have been known, no single term being uniformly accepted, as industrial betterment, welfare work, and service for employees. The range of the activities and the fact that the field is not fixed have made simple definition difficult. There is little uniformity in the efforts and plans of the employers who have undertaken this work. Because of the fundamental consideration that the work be done voluntarily, the field is constantly changing. If the service given by some employers is made statutory and all employers within the jurisdiction of the legislature are compelled to furnish it, in such states it can no longer be considered welfare work. This is the case, for example, in compensation for industrial accidents, formerly given voluntarily by some concerns, now compulsory in many states through a workmen's compensation law. Moreover, it must be in addition to, and

not a substitute for, such wages, hours of labor, and working conditions as are prevalent in the community in which it is undertaken. Welfare work may therefore be defined as that service given by employers to their employes, beyond the requirements imposed by law or forced by employes, and in addition to the conditions of employment prevalent in their community.

WELFARE WORK THAT IS BEING DONE

Although welfare work is by no means a new thing, it has had its greatest development within the past few years. It has unquestionably existed wherever an employer was particularly farsighted or unusually interested in the well-being of his employes. We find records of special provision and care in some of the old apprenticeship contracts and in the work of Robert Owen at New Lanark, to quote only two examples. But welfare work on a large scale, even at the present day, is spreading but slowly to include those engaged in agriculture and domestic service. It has been extended principally to those employed in transportation and in manufacturing and mercantile establishments, and, in spite of its recent growth, it is as yet affecting only a comparatively small percentage of these workers. But the fact that it is spreading under the guidance of acknowledged industrial leaders indicates that it is becoming an integral part of modern industry.

The welfare activities undertaken by employers are varied. No one employer has attempted all of them. Some have gone far beyond the requirements of the law in providing sanitary factories; others have extended their interest to include the housing of their employes. Some have emphasized the need of safe workrooms; again others have put stress upon safe workers. The development has been sporadic. There has been slight uniformity either according to industry or locality. Certain employers have done intensive welfare work. For instance, with the health of the employe as their principal interest, they have provided medical care, with sanatorium treatment and various kinds of clinics. Other employers have done extensive work. One industry, for example, which has developed its own industrial community, includes the housing, recreation and education, not only of its employes but of their families in its scope of activities.

Four problems of prime importance,—the workplace, vacations,

wage-payments, and employment and discharge,—usually are given first consideration by employers. With the aid of modern engineering knowledge, attention is being given, in erecting new buildings and remodeling old ones, to facilities for light, heat, ventilation and protection from fire and from dangerous machinery. In the matter of light, for example, the placing of the machine is determined by the location at which the operator will receive the maximum natural light without injury to his sight. Again, the heating of the work-room is determined by that temperature which assures the maximum energy of the worker.

An increasing number of employers are beginning to recognize the importance of vacation periods. In many manufacturing establishments the period of stock-taking and repair is made a compulsory vacation for the majority of the employees. Vacations with pay are becoming more common, although, as a general practice, this advantage has been extended only to office employees. In some industries provision is made for regular rest periods during working hours.

Some fundamental improvements have been made in the matter of wage-payments. The cash payment is replacing the check, a change which does away with the petty graft that accompanies the cashing of the check. The frequency of payment has been arranged to fit the current needs of the worker. Pay-day has been selected with a view to encouraging saving.

A great deal has been done by some employers to simplify, for the worker, the problems of employment and discharge. One step has been to exercise greater care in choosing employees. The object is to keep persons from entering an industry for which they may not be physically or mentally qualified. Where this care in selection is accompanied by a physical examination, the health of those already employed is also protected. Consideration is given to the aptitude of the applicant in order to assure him work that will be congenial. The power of discharge is being taken out of the hands of the individual foreman and centralized. Thus unfriendliness on the part of a foreman, or the inability of two workers in the same department to agree, need no longer be cause for loss of position. Adjustment of differences or the shifting of the troublesome worker to another department is a more far-sighted solution of the difficulty.

In addition to these activities, employers have concerned them-

selves with conditions in their employees' lives. It is impossible in so short a statement as this, to go into detail in regard to the plans in force in this type of welfare work. The following summary will give, perhaps, some idea of the extent of these activities:

- 1—Medical Work (a) Preventive: (1) Medical Examinations (on entrance and annual)
(2) Rest Rooms
(3) Washing and Bathing Facilities
(4) Home Nursing
(5) Lunch Rooms
(b) Curative (1) Dispensaries and Hospitals
(2) Special Clinics (Optical, Dental, etc.)
(3) Tuberculosis Care
- 2—Savings and Insurance: (a) Loans—(1) Remedial
(2) Building
(b) Insurance—(1) Sickness
(2) Life
(3) Old Age
(c) Profit Sharing
(d) Savings Plans
- 3—Recreational Activities: (a) Clubs and Association
(b) Entertainments, Concerts, etc.
- 4—Education of Workers: (a) Training for Jobs
(b) Training in Jobs
(c) Training in Citizenship
(d) Promotion and Records
- 5—Care outside of Working Hours: (a) Housing
(b) Recreation
(c) Care of Families

In this group the prevailing interest, and consequently the present greatest development, seems to be in medical care for employees. In the growth of welfare activities in an institution doing a wide variety of welfare work, this has usually been the starting point; other efforts have followed. Should a general plan of health insurance develop, it seems probable that this will be even more generally true.

REASONS FOR WELFARE WORK

There are a number of plausible reasons to offer for the undertaking of welfare work by employers. Some have been offered by the friends of welfare work, others by those opposed to it. It is

hardly likely that the interest of any employer in welfare work can be traced to any one reason alone.

The pride of the individual owner in the plant that he controls and his personal interest in his employes play an important part in the beginning of welfare work. This is especially true in communities controlled, in large measure, by a single industrial organization.

A more important cause, and one that we like to believe is true of welfare activities now beginning, is the development of social vision among owners and managers. It is the worker's present labor that is being exchanged for wages; not his future earning power. When President Wilson, during the recent railroad controversy, stated that labor is more than a commodity because a man's labor is part of his life, he put this conviction into words.

A reason of some weight that can be given as one of the causes of welfare activities is that industry has begun to appreciate the importance of the human factor in production. This has been a result of the modern need of efficient management. Machines alone do not do the work. The loyalty and interest of a stable labor force are essential to the securing of maximum production in large quantities. Welfare work emphasizes the human element in industry and does away with the concept of men as machines. It wins the loyalty and interest of the workers. Among progressive organizations this has caused an increasing consideration of welfare work. In industrial centers, during times of prosperity, there is competition for high-grade workers. It seems likely that welfare activities attach employes to their plant and help attract new workers. In this connection it may be of interest to refer to an advertisement that appeared recently in the newspapers of New York City, asking the services of a hundred workers, and placing all emphasis upon the advantage offered in cheerful and sanitary working conditions, rest rooms and lunch-room facilities, with extras at cost.

It has, in fact, been the contention of labor leaders that employers begin welfare activities for a stronger reason than that they think it pays. They claim that employers use welfare work as a club against employes' organizations. Some support was given to this view in the recent railway struggle when a few officials urged their employes to refrain from striking, since by so doing they would sacrifice all rights to the savings and pension plans of the company.

However, it is very doubtful that the inception of welfare work in any industry was done solely with the desire to destroy or forestall union activity.

It has likewise been stated by those who are unfriendly to welfare activities that it has been given as a substitute for wages. Here again it is doubtful whether the initial object was to keep wages low. Welfare activities are not inexpensive undertakings. The wages paid by organizations doing welfare work usually bear comparison with others in the same field of industry.

Another reason for the development of this service for employees by organizations like public service corporations and others supervised by public bodies may be to secure the support of the public.

RESULTS OF WELFARE WORK

What has welfare work accomplished? Has it benefited industry, the worker, and the community? Undoubtedly, it has gratified the pride of many an owner in his establishment. And, too, where social vision may have been at the root of much welfare activity, welfare work has more likely developed the social point of view in employers who began these activities for other reasons.

Industry, however, is seeking more tangible results from its welfare work than this. Unfortunately, at this time, it has not produced comparable figures of increased production or reduced costs. Individual instances there are where a discriminating choice of employees, coupled with the care of those employed, has resulted in an increase in output, but there has been no analysis of the results of a large number of those organizations which have undertaken welfare work. In spite of this lack of figures, the pioneers of welfare work have faith in its usefulness. They claim that it justifies its cost when it stabilizes the labor force. Absence from any cause,—be it sickness, accident, lack of interest,—is expensive. A little dispensary care may prevent an illness; glasses for an operator may eliminate his spoiled work, and so on. Employers claim also that welfare work pays when it has awakened the interest of the employee in his work.

Efforts to arouse the worker's interest have proved of great benefit to the employee himself. Working conditions have been improved; efforts are made to eliminate preventable accidents and sickness; cooperative provision is made for these contingencies

when they occur. Worry over the future is removed by the reduction of the fear of incapacity, and of loss of position.

The community requires two things, maximum production and healthy, contented workers. Welfare work is based upon the supposition that these two go hand in hand. It will be of value to the community as it develops both. As yet, except in isolated instances, welfare work has been too limited to warrant the statement that it affects the community appreciably. But any efforts of this kind seem of community value since they set a higher standard for industry, and lead the community to raise the minimum set by law.

THE FUTURE OF WELFARE WORK

Although welfare work has been of value to employers, to employes, and to the community, it must be widely extended if it is to play an important part in the development of American industry. A much larger percentage of workers must be affected, not necessarily by all existing forms of welfare work but by such kinds as prove to be of first importance. Even in those organizations which are already interested in welfare work, there is room for development in these activities. Welfare work is still too new to have been perfected by any organization.

If the standards of industry for its workers are to advance beyond the minimum standards fixed by law, two developments are essential. There must be analyses of the results of welfare work so that it may be apparent to doubting employers that welfare work pays. There must be a democratizing of these activities in order to overcome the hostility and criticism of the workers.

Welfare work has passed through its first stage, that of experimentation. The second period, one of interpretation and evolution, has been reached. The future of welfare work depends upon the results of this scrutiny. If welfare work is shown to be of value, if it can be co-related to successful management, it will enter into its third period, that of extension and expansion.

More important, perhaps, is the problem of making welfare work democratic. At present, most of this work is controlled by the employers who have interested themselves in it. This has called forth the criticism that employes need a share in the control of these activities and partial responsibility for their management. Experiments in this direction are already being

made, especially in mutual benefit associations. In these the employer frequently assists in the formation of the organization, makes contributions to its funds and makes suggestions for its guidance. Welfare work so managed is training in the fundamentals of democracy,—coöperative activity and mutual responsibility.

Welfare activities must not be utilized to thwart the aims and purposes of organizations of employes. Should this be the case, welfare work would rightly merit the hostility of labor leaders to which it is now occasionally subjected. Again, improved working conditions are never a substitute for reasonable hours or decent wages. Any other premise would at once eliminate welfare work as a proper activity of industry.

Welfare work has had a remarkably rapid development. It has done much to improve the conditions of labor for many workers; through it legal minimum standards have been raised. It must now face and solve a number of serious problems if it is to continue to grow. It is to be hoped that it can do so because the humanizing of industry for which it stands is one of the progressive developments in the present period of social unrest.

BETTER LIVING CONDITIONS FOR EMPLOYEES AND THEIR RELATION TO STABILITY IN EMPLOYMENT

BY JOHN IHLDER,

Secretary, Philadelphia Housing Commission.

The keen and rapidly growing interest that employers today take in the improvement of living conditions for employees probably is due chiefly to two causes: first, an awakened social conscience, and second, and largely due to the first, a more intelligent and far-seeing selfishness. As in any great social change there are, of course, also many minor contributing causes, some of immediate or emotional appeal. There is no question, for instance, that some of the most recent housing operations by industrial concerns are due to a scarcity of labor and an inability to get or retain laborers unless good dwellings are provided for them and their families. This is particularly true of the rapidly expanded munitions plants. But their example has had a powerful influence upon other employers, not only as an example but as being the only means of successful competition in the labor market. With this has gone the emotional appeal of Americanization.

So evident are these latter, and as I believe, minor causes, that, to many persons, even including some of the employers who are building houses, they seem the major causes. And so at least the second is if stripped of its immediate and temporary appeal and properly related to the two great major causes that for years before the outbreak of the European War had been slowly changing the employer's attitude of indifference toward conditions outside his factory walls.

This attitude of indifference, in America at least, was not the original attitude. History does not exactly repeat itself, but it does seem to work in an ascending spiral, bringing us again to situations analogous to those through which we have passed. When America left the age of homespun and entered upon the industrial era it had before it the horrible example of England, pioneer of industrialism. Among those who founded the first textile mills of New England were men who had seen with their own eyes not only

the moral and physical havoc wrought upon transplanted country people in the English industrial towns, but also the first inspiring attempt of Robert Owen to work out a better system. Reinforcing this lesson was the difficulty of securing factory employes in America unless they were assured of good living conditions. For practically the only source of factory labor then was the farm.

Another interesting analogy between these beginnings of American industry and the present is that America then as now was greatly influenced by a general European War. The embargo of 1807 had cut off the importation of textiles. Its repeal and the enactment of the non-intercourse act in 1809, which still shut England and France from our markets, was almost equally effective in its encouragement of home manufacture. Before the end of the War of 1812, American industry was firmly established.

The change that these years brought about is indicated in a report made in 1810 by Albert Gallatin, Secretary of the Treasury, "that about two thirds of the clothing, including hosiery, and of the house and table linen worn and used by the inhabitants of the United States who do not reside in cities, is the product of family manufactures." Meanwhile, within two years, the number of spindles in cotton mills increased from 8,000 to 80,000, and shoe, hat and other factories grew in numbers and in size. Such was already the sequence of the cotton mill established at the falls of the Pawtucket in 1790. No wonder that Tench Coxe in his report (1814) prefaced his statistical tables of American manufactures with a panegyric. "These wonderful machines," he declaims, "working as if they were animated beings, endowed with all the talents of their inventors, laboring with organs that never tire, and subject to no expense of food, or bed, or raiment, or dwelling, may be justly considered as equivalent to an immense body of manufacturing recruits suddenly enlisted in the service of the country."

This enthusiasm is undimmed by any premonitions. And at the time there was little ground for premonitions. The growth of the new industries meant no huddling of low paid workers in already overcrowded cities. The earlier mills depended upon water-power, so their influence was against rather than toward the concentration of population in the cities. The first mill, though built by Providence capital, was not in Providence but some distance away at the falls of the Pawtucket. Its Rhode Island successors were scattered

along the streams that empty into Narragansett bay. In Massachusetts, early industry had the same decentralizing influence. Though it contributed to the wealth of the old commercial cities, it did not bring in its thousands of workers.

Because the primary need of the new mills was water-power, they were established in the open country. Because there were no houses for the employes, the building and management of mill houses was an essential part of the enterprise. And because the only available supply of labor was the Yankee farmer and especially the Yankee farmer's daughter, the houses were well built and the management above serious criticism—except perhaps for its strictness. Especially over the large boarding houses provided for their girl operatives did the mill managers exercise an oversight that was really paternal. They were most careful in the selection of housekeepers who were to stand *in loco parentis*. They saw to it that the houses were well kept, that the food was good. They made and enforced rules of conduct. Not only must the girls be in at a certain hour in the evening, but they must attend church on Sunday.

The family dwellings were not so strictly supervised, but they were well built and well maintained. Some of the first village mill houses are still occupied by mill workers and are still excellent dwellings, the chief criticism that may be made of them being their lack of modern sanitary equipment and, perhaps, a lack of sufficient window space in attic bedrooms.

But water-power as then developed was unreliable. Coal came to be, and still is in some of the oldest mills, a supplementary source of power. Then mills were built which depended upon coal alone. These new mills were no longer scattered along the valleys but were grouped at transportation points. Some of the first mill villages still remain villages, but others have grown into cities: Pawtucket, Lowell, Lawrence. Others have disappeared, their strength gone to swell that of some larger community. So industry brought not only its wealth but its workers to the cities, or by concentrating developed cities where only villages had been before.

With this change came what virtually amounted to a transformation in the living conditions of the mill workers. In the old days there had been a continuance of the friendly, neighborly relation between the employer and the employe that marked the preceding era of the small shop. In the early days of Lowell mill girls

visited the family of the manager. The employees had organizations designed to advance them in their work, like the Middlesex Mechanics' Association, and the girls had reading clubs. Those of Lowell even wrote and published a magazine from 1840 to 1849. This was, in some ways, the golden age of American industry, an age in which employer and employe had a common heritage, had standards which, if not identical, were at least like enough so that each could understand the other's. Wages were comparatively high. The girls, who formed the great majority of the operatives, usually came to the mills for a few years only, lived, while there, under good conditions, and then returned to their farms. The men looked forward to advancement.

But when villages changed to cities all else changed. Houses were built by others than the companies. First to feel the effect were the boarding houses. Girls who resented the strict supervision of the boarding housekeepers moved into private quarters. To take their places outsiders were admitted. Then the housekeepers complained that they could make no profit, so two or three houses were combined under one management and boarders who lodged elsewhere were admitted to the dining-room. Discipline necessarily suffered and finally the mill managements closed most of their boarding houses.

With the family dwellings a similar but less pronounced change took place. The desire for greater independence led many men to rent or buy houses erected by the speculative builder, even though the cost was much greater than that of the mill houses. So great did this defection become that some of the mills were forced to take as tenants families who had no connection with the industry. Others converted their dwellings into store houses. Others sold. Almost immediately rents went up, doubled and trebled. For the mill houses had not been, and usually are not now, operated on a profit-making basis.

While this was going on a new element came into the life of the industrial communities and hastened the change. Though Coxe in his panegyric had proclaimed that the new machinery which was taking the place of the old hand looms might be considered as equivalent to an immense body of manufacturing recruits, there had been difficulty from the beginning in securing enough workers to tend this new machinery. One of the chief concerns of the

earlier manufacturers had been to prove to the New England country girl that factory life would not lower her in her self respect or in the respect of others. So the coming of immigrants was hailed. The first of these were English and Scotch. Then came the Irish, whose numbers were swelled by the great famine in the middle of the century. After them came the French Canadians and, more recently, the peoples from southern and eastern Europe and from Asia.

Each of these groups of aliens has more or less completely pushed its predecessor out of the lower paid and less skilled positions. Coinciding as their coming did with the weakening of the mill house system and with the concentration of industries, it has aided in the transformation of the older industrial communities of the East and has been a potent factor in preventing the development of similar communities in the newer parts of the country. Even with the English operatives there was no longer a feeling of a common heritage or common traditions between employer and employed. With the coming of the Irish, with their lower standards of living, their untidy shacks and hovels, the gulf widened. And when to the Irish there succeeded the Latins, Slavs and Asiatics, the gulf became seemingly impassable. Then the theory that the employer has no concern in the living conditions of his employes gained credence. Then developed the Lawrence, the Lowell, the Pittsburgh, the South Chicago that we know today.

Coming as they did when economic forces had already weakened the old human relationship between employer and employe, these peoples of different standards, of different traditions, of different tongues, confirmed an inclination on the employer's part to shake off a responsibility that had ceased to give satisfaction and had grown irksome. For it must be remembered that the owners of even the earlier mills were often not residents of the mill villages. The founder of the first mill, at Pawtucket, lived in Providence, not very far away but still in a different environment. The founders of Lowell, present owners of the great mills at Lowell and Lawrence, lived in Boston. While their employes were Americans there was a bond that bridged distance. When their employes became aliens the bond disappeared.

Such generalizations are, of course, subject to exceptions. As many of the villages did not grow to be cities, so many of the mill

owners did and do live in or near the village or the city where their wealth is produced. When this is true in a village, living conditions are likely to be better because of it, though even then there remains the gulf between native and alien. In the cities the presence of the employer has been of less effect. There his responsibility has been more obscured. It is even more than a question whether, during the past generation, his active intervention would not have been resented. The antagonism between labor and capital, the development of the stock company, the desire for independence on the worker's part, the lack of desire for responsibility on the part of the employer or manager, the prospect of gain for the land owner and the speculative builder, these among other motives tended to make him set the boundary of his interest at the mill gates.

But facts are stronger than theories or inclinations. Because of theories and inclinations slums have spread through our cities; new industrial communities have become not only objects of scorn, but of deep anxiety. Plainly the employer's concern for the employe cannot cease at the gates of the mill but must follow him home. Had the immigrant of foreign tongue arrived earlier, before the mill house system had begun to break down, before the industrial city had appeared, had he come in smaller numbers so that his value would have been greater and so that he might have been absorbed into existing communities instead of establishing new ones of his own, our industrial history might have been quite different. Whether, ultimately, it would have been better is another question, for the old system was paternalistic to an extreme degree, and had the Latin and the Slav been subjected to it at the time of its greatest strength the effect might have been lasting.

Today, faced with the fact that a *laissez faire* policy is, in the long run, unworkable, we have also the experience that paternalism is not workable. This is important because the first instinct of those who have power, when inspired to use that power for the benefit of others, is to use it paternalistically. Pullman came half a century after the New England pioneers. And he has his successors today. We must find another way. To be sure there have endured in New England mill villages, founded in the early days of American industry, that still maintain a paternalistic system. There are even neighboring villages of comparatively recent origin that have taken up the tradition. But their owners seldom speak of

them with enthusiasm. Their usual statement is that only because of force of circumstances do they own and manage dwellings. Meanwhile the proprietors of other industries, finding their old quarters within a city cramped and unsuited to present needs, are moving to the outskirts or to small towns and villages. Often with them one motive has been the conditions under which their employes were forced to live. The owners of still other industries find that, because of the growth of manufacturing enterprises, there are not enough dwellings in the city for the employes of all.

So, for one cause or another, the question has again forced itself upon the employer's attention as it had not since the beginning of the past century. Better living conditions for employes must be provided. But how it is to be done is still far from settled. Some of the new communities are but unimaginative duplicates of those which demonstrated their unworkableness nearly a hundred years ago. Others, however, are experiments, more or less cautious, in newer methods. The most common of these is for the company to build houses and sell them on easy terms to its employes. Yet experience has shown that this is but a temporary solution of the problem. Another is the organization of a subsidiary company which buys, builds, sells and rents. Proposed, but not yet carried to completion, are schemes of a coöperative character.

So we are today in an experimental stage. We are faced by the fact that *laissez faire* will not do. We have had experience which teaches us that paternalism will not endure and that its end is bitterness. All we know is that it is to the benefit of the community and to the direct and continuing profit of industry that employes be well housed, that they live under good conditions. Even on this we have not, for America, scientific proof. The proof we have is that for more than a century some firms have continued to provide dwellings for their employes, though they would gladly be quit of the work and the responsibility; that other employers are beginning to do the same thing, though they undertake the enterprise with reluctance; that still other employers in seeking new sites for their plants, make as one of their conditions that the neighborhood of the new site provide good housing conditions for their workers.

Yet when one seeks facts from these men he finds either that they have no facts, have acted merely from business sense and the

untabulated lessons of experience, or that they are reluctant to disclose the facts. As one of the motives of some employers in providing housing is to secure a greater degree of control over labor, the reluctance in such cases to disclose facts is understandable. Moreover, there is today no complete or even fairly complete list of American firms that house and aid in housing their employees. In 1904 the Federal Bureau of Labor (as it was then) published a report on *The Housing of Working People in the United States By Employers*. It listed sixteen companies and said, "It has not been possible to ascertain that other establishments in the United States have been engaged to any great extent in similar work, although every effort was made to cover the field as thoroughly as possible." This list was inadequate even for its time. Since then other lists have been published, each adding to the number of firms. And in nearly every case firms are listed for the first time that had been engaged in this work for many years. The latest list contains twenty names, one of them that of the United States Steel Corporation, which alone controls several towns.

This inability to secure even a list indicates how isolated each experiment has been. Those in close proximity to each other doubtless have taught each other, though usually what they have taught has been learned by rote rather than assimilated, for there is a likeness about neighboring industrial communities that is disheartening. But of one thing their managers are all convinced, though the figures to prove it are not available: good housing lessens the number of strikes and causes a marked decrease in the labor turnover. That is the business end. It is the immediate consideration. Whether good housing decreases the amount of sickness they do not know. They have not thought much about it. That it makes the men more contented they believe.

At the present time the Department of Labor is making another investigation of the housing of employees. Perhaps its report will contain the data we need to lift the question from one of moral certainty to one of demonstrated fact.

IMMIGRATION AND AMERICAN LABOR

BY HARRIS WEINSTOCK,
State Market Director of California.

Most of us are opposed to all monopolies except our own. The officials of organized labor, being a part of us, can therefore hardly be blamed for being opposed to the encouragement of immigration. These officials feel exactly as merchants and professional men would feel if they were asked to help to increase the number of their competitors, and to that degree to invite decreased earnings.

The natural feeling on the part of organized labor officials is that a large influx of immigrants brings lowered wages and more hands to do the work, and thus less work for each pair of hands to do. When hard times come, they claim that these conditions only aggravate the problem of unemployment.

The officials of organized labor are the leading proponents in the claim that immigration has largely been responsible for the existing state of industrial unrest; that it has been the largest single factor in preventing the wage scale from rising as rapidly as food prices; that it has done much to prevent the development of better relations between employers and employes; that it has greatly hampered the formation of trade unions and has increased the problem of securing responsible organizations.

I said that the officials of organized labor are opposed to immigration. No man knows what is the attitude on this question on the part of the rank and file of the three million trade unionists, since to my knowledge there has never been a trade union referendum taken to learn their attitude. It is quite likely that if such referendum were taken it would be found that the great body of trade unionists, many of whom are immigrants or the immediate descendants of immigrants, would favor giving the same opportunities for betterment to their European kith and kin that they have been permitted to enjoy.

What the worker in this country needs is the widest opportunity for employment and the greatest demand for the output of his handiwork.

Imagine the population of this nation reduced from one hundred million to say fifty million. It must be plain that under such circumstances the home consumption for the output of American labor would be cut in half and opportunities for employment on the part of the remaining 50 per cent of the population would be reduced accordingly.

On the other hand, imagine the population of the nation in due course doubled. This would double the home demand for labor's output. The increased output would lessen cost of production and thus tend to widen our world markets.

A great cry over the scarcity of labor comes from the farmer, more especially of the West. This very harvest season has seen a call for harvest hands at offers of wages almost prohibitory to the farmer, and yet the farm labor demand was not supplied. Let this condition go on and in the near future farming would become so unprofitable as to cut down the acreage under cultivation, not only because of the scarcity of new labor, but also because much of the present farm labor would be lured to the cities on account of the higher wages offered and the greater city attractions. This in turn would spell yet higher costs for food, putting a still greater burden on the consumer.

The European War has revolutionized world conditions. When it shall have been brought to an end, Europe will find herself poor indeed.

The world's greatest asset is its men. This most valuable of all assets is being steadily decimated by being killed off and crippled in Europe by the hundreds of thousands. When peace shall have been restored, the nations will find themselves handicapped not only by the loss of millions of able-bodied workers carried off by the bullet and by disease, but also by other millions of men who through loss of limb and of productive power will have become burdens.

There will be the greatest scarcity of able-bodied men to carry on the great work of restoring European industry and the ravages of war.

It is plain to foresee that the governments of Europe must establish conditions that will conserve for themselves what remains of their brawn and muscle. Every possible step will most likely be taken to put a ban upon emigration of the able-bodied, and

anyone who will encourage such emigration will be regarded as an enemy to the country and doubtless treated as such.

Meanwhile, while the warring countries of Europe are impoverishing themselves in men and in money, the United States is waxing rich as never before in its history. Its wealth will keep on growing to proportions never dreamed of by the wildest visionary. This vastly increased wealth must be profitably employed and can best be profitably employed by the development of our many yet undeveloped natural resources.

How are these great resources to be developed without an adequate labor supply? How are we to build our canals, our reservoirs and our railways? How are we to develop our mines, cut down our forests, build our ships, colonize our lands and conduct the potential great industrial enterprises now in sight, without added supply of brawn and muscle? Unless all this is done, the opportunities for still greater betterment on the part of the labor with us are minimized.

We may deplore the fact, but the fact nevertheless remains that our American-born workers look with more or less disdain upon the handling of the pick and shovel. Whatever the causes may be, they do not and will not perform the unavoidable tasks inseparable from the development of great natural resources by being "hewers of wood and drawers of water."

Imagine how impossible it would have been, for example, to build the Panama Canal within even a lifetime, if none but American citizens were to have been employed as common laborers. Had there not been available a supply of Jamaican negroes, Spanish, Mexican and other common labor, the completion of the Canal in all likelihood would have been postponed for a decade or more, to the loss of the entire world. As it was, remunerative employment for several years was afforded thousands of American citizens during the construction of the Canal as foremen, as engineers, and in all the positions of trust and responsibility.

Another problem affected by immigration is that of domestic service. Cut off the supply of house servants by restricting immigration and you further aggravate, more especially in the West, the great existing problem of securing domestic help. Already the cry of the American housewife has gone abroad that the supply is entirely inadequate to meet the demand. The lack of efficient

servants and the great increase in their wage have caused a famine in this line of activity. Again the fact remains that for social and other reasons American girls will not, as a rule, enter domestic service. The shorter hours, the alleged higher social standing, the greater freedom offered by the shop, the store and the office are decimating the ranks from which domestics were formerly recruited. This change in conditions is in the nature of a menace to the American home.

Untold thousands of salaried men and small tradesmen who could formerly afford to employ one or more domestic servants find that these have become luxuries beyond their means. The home is therefore in thousands of instances being abandoned all over the land for the boarding-house or the hotel. Children, formerly reared in private, surrounded by proper home influences, are now destined to be reared in cheap hotels or boarding-houses, with all their consequent ills on childhood. Conditions such as these must in time cause "our new graves to become more numerous than our cradles." The only recruiting ground for domestic help remains in Europe.

Minimize immigration and you still further aggravate the existing problem of domestic service.

There is today throughout industrial centers a labor famine, caused partly by the cessation of immigration and partly due to many able-bodied men of foreign birth leaving the United States to fight the battles of their native land. This labor famine is limiting the possibilities of industrial and agricultural development and is simply a forecast of what would follow a still further limitation of immigration. The unprecedented industrial and agricultural expansion which has taken place in this country in recent decades is primarily due to immigration. Without it, development along such lines would long since have ceased.

The possibilities in all directions in this country are as yet limitless. We can better appreciate this when we realize that the State of Texas with England's density of population could alone accommodate the people of the entire United States.

Every able-bodied male or female producer, literate or illiterate, that can be brought to this country with sound body and good character is an added asset.

It has been pointed out that a first class black slave was worth

before the Civil War, \$1,500. How much more then should a healthy, able-bodied, free, white man be worth to the country?

It is true that at times our congested centers are seemingly overloaded with labor. A goodly percentage of this overload will be found to be among seasonal workers, temporarily out of employment because of climatic conditions, as well as the disabled, the incompetent, the unwilling, or the victims of drink, drugs or disease.

These conditions could in a measure be minimized if we were to follow the plan pursued by the Argentine Republic and other South American countries, which furnish free transportation within their borders to new arrivals in order to minimize labor congestion.

It is not a question so much of giving population across the sea so large a place in our regard and in our hospitality, as it is a question of seeking the welfare and development of our own nation, and all its wonderful resources.

We are told that immigration tends to beat down wages; but the fact remains that wages have advanced more rapidly and hours of labor have been shortened more during the periods of our greatest European immigration than in any previous period in our industrial history.

It has been pointed out that

eighty-five per cent of all labor in the slaughtering and packing industries is done by alien laborers. They mine seven-tenths of our bituminous coal. They do 78 per cent of the work in the woolen mills, nine-tenths of all the labor in the cotton mills, and make nineteen-twentieths of all the clothing. Immigrants make more than half the shoes in the country. They turn out four-fifths of our furniture, half the tobacco and cigars and nearly all of our sugar. In the iron and steel industries, immigrants share all the risks.

The workman at one time looked upon the invention of every labor-saving device as a menace and a competitor likely to rob him of his job. Time has shown that, instead of robbing men of labor, these devices have created untold new avenues of labor. The lessened cost of production made possible by labor-saving devices has greatly increased consumption and thus in turn tremendously increased the demand for labor.

The immigrant, by furnishing the needed labor, opens out new productive possibilities that otherwise would remain closed, so that instead of robbing those here of work, his presence makes new and still more abundant work possible.

Despite the alleged excessive immigration of recent decades, the fact remains that the ratio between foreign- and native-born during the past fifty years remains substantially the same. The census shows that in 1860 the foreign-born were 13.2 per cent of the population, and in 1910 were but 14.7 per cent. Wages are higher, working hours shorter, and standards of living far in advance in the United States today compared with 1860.

It has been pointed out that immigrants have a passion for educating their children. The United States Commissioner of Education tells us in a Bulletin that

the least illiterate element of our children is the native-born children of foreign-born parents. The illiteracy among the children of native-born parents is three times as great as that among the native-born children of foreign-born parents.

We find then that labor leaders and those who sympathize with their point of view are not warranted by the facts in opposing immigration. We find that our industrial needs, our agricultural needs, our domestic needs, all demand that we shall continue to extend the hand of welcome to every decent, able-bodied man and woman who is willing to come and work among us. We find that the greatest progress we have made in trade, in industry, in commerce, in agriculture, in education, in the arts and sciences and in social welfare has been made during the decades when immigration in this country has been greatest. We believe that ample provision has been made by law to keep out the mentally, morally, and physically unfit. We believe that these laws should be rigidly enforced and that if the present machinery for doing so is inadequate it should be bettered and perfected. We believe that in order to make still greater progress along all lines of human endeavor, we can with perfect safety and advantage to ourselves and to our children, as well as to the advantage of the fit immigrants and their children, invite them to be of us and with us for their good and for ours.

THE PSYCHOLOGY OF FLOATING WORKERS

BY PETER ALEXANDER SPEEK, PH.D.,

Legislative Reference Division, Library of Congress, Washington, D. C.

I

The evolution of productive factors is characterized by a gradual replacement of physical exertion by mental—of muscles by brains. The human being as motive power in the process of production is becoming more and more a directing power—in the sense that he directs the machines that do the actual work. Thus the imaginative and attentive abilities—will power, discipline, in short, the psychology of laborers—are gaining more importance, viewed from the standpoint of efficiency in production.

Notwithstanding the interdependence of efficiency and general well-being of the worker—a fact generally accepted in theory—the psychology of workers has not to any extent been studied either by the efficiency experts or by psychologists and sociologists. In this brief article are given some of the results of an investigation of the psychology of unskilled laborers which was made by the writer in 1913–1915 for the United States Commission on Industrial Relations.

II

In the normal times, before the present war,¹ it was a well-recognized fact that the numbers of the unskilled laborers were increasing rapidly as compared with the numbers of the skilled, and that the numbers of the lowest grades of the unskilled laborers—called migratory and casual laborers, drifters, hoboese, rounders, blanket-stiffs, etc., in short, the floaters—and of the unemployables—called tramps, bums, snow-birds, knights of the road, vagabonds, yeggmen, petty criminals, etc., in short, the down-and-outs—were increasing more rapidly than was the general population of the United States.

There are no statistical data to show the actual numbers of these elements of the population, nor are there comparative data

¹ This article does not attempt to deal with the abnormal conditions during the time of the European War.

to indicate the tendency of their proportionate growth during periods of time. Neither is there any machinery established by which such data may be gathered.

Loose estimates, or rather guesses, put the actual numbers of the lowest grades described—floaters and down-and-outs—somewhere above five million. More reliable seems to be the impression prevailing among students of industrial problems—labor leaders, employers, charity workers and the laborers themselves—that the numbers of these laborers, and especially the men of the down-and-out type, are increasing more rapidly than are the other classes of population in the country. Such persons usually point out that:

1. Unemployment has become an ever-present condition and is increasing every year.
2. More people apply for public charity, and the public poorhouses are more crowded than ever before.
3. Begging in the streets is growing.
4. Petty larceny and other small crimes are increasing. The same tendency is noticeable in regard to suicide, homicide, insanity and desertion of family.
5. Casualization of laborers is developing—they work only certain periods of time and these periods tend to shorten as years pass.

The reports of public employment offices, the pay rolls of employers, the interviews with employers and with laborers themselves, show that the process of casualization is developing rapidly. The vast majority of a large number of employers interviewed, especially of those in the lumber and construction industries, stated to the writer that the laborers are not what they were in former times. They no longer want to work continuously. They only work for a short period, to make a "stake"; then they quit and go to the city to "blow the stake in." The saying, "one gang is working, one going, and one coming," is true to a certain degree.

To the question, what is the matter with the men, the writer received varied answers. For example:

From an employer: The men are too lazy to work; our laws, courts and police institutions are weak as regards loafing, begging and stealing; and the charity organizations in the cities demoralize rather than uplift the men, by providing them with meals and shelter without labor.

From a charity worker: Yes, the men are falling down-and-out in a greater number than ever before. For this the hard and

unhealthy conditions at the work places are responsible to a degree, but, in the main, the men themselves are defective and responsible for their misfortunes. Some inherit certain defects by birth, but the vast majority have acquired bad habits, have weakened their bodies, and have lost ambition, will-power and self-respect.

From a preacher: The fountain head of the trouble consists in the fact that the men have lost religion; if they would turn back to God, everything else with them would be all right.

From a radical labor leader, socialist, I. W. W., or union man: The existing industrial conditions, low wages, long hours, poor living, etc., are responsible for the casualization of laborers and the production of hoboos and tramps. There is nothing wrong with the men themselves; do away with these conditions and with the wage-system in general, and there would then be no more down-and-outs—the product of industrial slavery.

From an educator: The main cause of casualization is the lack of training in general character building and in trade.

From a moralist: The main cause is drinking and prostitution—saloons and red-light districts.

From a student of industrial problems: For the casualization of laborers a number of causes are responsible; rapid introduction of skill-replacing machinery and other improvements in the technique of production; seasonable character of numbers of large industries; fluctuation of market; irregularity of employment; unregulated transportation of laborers; and pressure of circumstances and environment in general. The existence of casual laborers in large numbers is an essential of the present organization of our industrial system.

These widely varied opinions about the causes of casualization show the complexity of the problem.

III

According to degrees of steadiness and efficiency at work, the unskilled laborers may be divided into the following grades:

1. *Steady Laborers*

2. *Floating, Migratory or Drifting Laborers* who are constantly moving from job to job and from locality to locality in search of work and to "better the conditions." They may be subdivided into:—(a) seasonal and (b) casual laborers.

You can't get religion on an empty stomach.

The devil may quote the scriptures to achieve his purpose

The seasonal laborers stick either to one industry, if its season lasts for a long time, say eight or ten months, or to a number of industries the seasons of which are short and occur in succession, as, for example, in the fall in lumber camps, in winter in ice camps, in spring in farm work, in summer in harvesting, then again in lumber camps, and so on. Their method of selecting jobs has some regularity.

The casual laborers, on the other hand, have no regularity—they accept and work on whatever job they secure, in whatever industry, and for whatever concern. They may be further divided into:—(a) casual laborers proper; (b) odd-job men; and (c) hoboes. The casual laborers proper earn all their living by labor; they do not beg, apply for charity or steal.

The odd-job men are rather a city type; they seldom go to work out of the city, although they migrate from one city to another.

Hoboes are a rank of casual laborers earning most of their living by labor, willing and desirous to work, but in the time of unemployment when hard pressed, supplementing their living by such means as begging, application for charity and stealing—"taking" meals, provisions, clothes and money, though only in such quantities as to satisfy their immediate need. Their self-respect is already shattered. However, they are laborers, preferring to earn their living by honest work.

3. *Unemployables or Down-and-Outs.* The main characteristic of these men is that they do not work. They may be subdivided into: (a) unable to work; and (b) able but unwilling to work, (1) common type—tramps, bums, vagabonds, etc., and (2) criminal type—pickpockets, yeggmen and other thieves and robbers.

The above classification of our unskilled and unorganized workers shows in general the steps in the downward movement in the lives of a large number of men. First a steady worker, then a seasonal and casual worker, then a hobo, then a down-and-out. To each of these successive stations corresponds a certain psychological condition upon which human conduct depends.

IV

Ambition and hope characterize almost every young man, who, leaving his family hearth, enters the outside world for his life's battles. Ambition and hope make life bright and enjoyable. The

possessor of these natural stimuli for working and fighting has no need of artificial substitutes and of defence-reaction.

But when ambition or hope fades or is shattered, different psychological characteristics appear in a man. An unskilled laborer, working at first steadily and afterward meeting failure after failure, begins to lose ambition and hope for a better future in his life.

The causes of his failure are varied. They are the unregulated life and labor conditions in the industries where unskilled wage-earners are employed, especially in various lumber camps and work places, including the farming industry; the unregulated distribution of labor—the unorganized labor market—including the unregulated transportation of laborers, and the uncentralized short or odd jobs in the cities; the irregular and seasonal character of work in many industries; the increasing tenancy in farming and, connected with it, child labor in farming; also child labor in other industries; strikes, especially those that fail; blacklisting; the absence of protective organizations among the laborers themselves. Other causes of the worker's failure are his educational defects; lack of knowledge among the immigrants of English, trade, labor laws and American customs, institutions and ways of life; lack of knowledge of trade and labor laws among the native working masses.

These direct causes produce certain effects which in turn result in the increase of the number of floating laborers, hoboos and down-and-outs. Of the indirect causes the following are the most influential: the bad living conditions and, still worse, the moral atmosphere of floating laborers in the cities; the evils in the lodging houses, the drunkenness, the prostitution, the gambling, the lack of healthy recreation facilities, the uncertain, gloomy and almost hopeless future of floating laborers.

V

One of the first signs of the decrease in the ambition and hope of a worker is the loss of interest in his earnings. He soon quits saving for two reasons: first, all of his previous attempts in saving failed because the hard times of unemployment, or illness, or some other misfortune ate up his savings; and, second, he begins to look upon his earnings as merely a means "to keep his soul and body

together," not as a means for his success in life. In consequence he begins to work seasonally and casually. First, industries require that kind of work, and second, seasonal and casual work corresponds to his changed views and needs. These changed views and needs are his desire to be on the move, and the need to earn only a "stake," a certain sum of money, specified in his own mind at the acceptance of the job. This stake is destined to help him to prosecute his immediate plans, to buy clothes and shoes, to have a "good time," to buy meals on his travels, or what not. But the main thing is, he must move; he must change his environment so as to see something new, interesting. To this end he has always a plan in his mind—where to go and how to go.

But when the last rays of his ambition and hope are gone he becomes a self-confessed failure and falls down, first, into the rank of hoboos—still laborers—and then into the rank of down-and-outs.

In the latter state he is characterized by the following psychological features:

- (a) The passion for wandering is increased almost to madness;
- (b) He has acquired a profound aversion to work;
- (c) He drinks whenever and wherever he has a chance;
- (d) He has developed a strange, childish expectation that he

may strike in some way, somewhere, a tremendously promising opportunity. This is something like the alluring dream of a rich gold strike to a prospector. If this hoped-for opportunity were such that its realization might reasonably be expected, it would recreate in him a strong enthusiasm and confidence, as a result of which he would cease drinking, and would work and battle till he won out and became a victor in life instead of a beaten man. But if one asks him of what nature is the opportunity he expects to find, he answers that it may happen that he will by chance become a prospector and strike a rich gold mine; or marry rich; or he may become a fisherman, at first for wages, afterwards independently; or he may find a very good job, working on which he will save lots of money; or he may specialize in some line of highly paid work; or he may by chance secure a homestead; or—or—

Led by such faint hope—very faint, almost nothing in his mind, but strong enough in his sentiment—he roams restlessly over all the country, from north to south, from coast to coast, back and

forth, moving from place to place by freighting or walking, seldom paying his way in his rainbow chasing.

(e) He has lost his ability to concentrate on anything sensible.

How can such psychological features, seemingly unnatural to any man, be explained? He is simply trying to escape from himself or to forget himself, in general. Life is dark and hopeless for him—nothing is left of his ambition, except gloomy thoughts and sad feelings.

Wonderful human nature invents other, one might say in common parlance, "artificial" substitutes for "natural" enjoyment appearing in ambition and hope. By changing environment—scenes—by constant wandering, he keeps up some sort of interest in life.

He is averse to work because his nervous system, by suffering and privation, is exhausted. Furthermore, he answers to the question why he does not want to labor: To labor! Why should I labor? I have labored, worked hard—years, tens of years, but the labor did not help, it let me fall down where I am as you see me.

But in general his idleness or "laziness" is nothing more or less than a kind of defence-reaction forced upon him by nature. In drunkenness he also finds a sort of "brightness" and forgetfulness. Rainbow chasing is again an artificial means of making his life "ambitious" and "hopeful." His lack of ability to concentrate his attention on anything is explained by the fact that he is worn-out and as a result his will-power has gone to pieces.

No law, court, police, prison, can "cure" him; nothing but medical treatment. But as medical treatment is more costly than the prevention of disease, the nation should take steps in the direction of preventing a large number of its members from falling down-and-out, beginning with the regulation of labor conditions in unskilled industries, especially in those of seasonal character.

HOURS OF LABOR

BY GEORGE G. GROAT,
University of Vermont.

The movement in the United States in regard to hours of labor in recent years has been very pronounced. The length of the working day has long been a subject for both legislation and collective bargaining as well as individual agreement. It appeared prominently in the agitation during the middle of the last century when ten hours became well established generally as a maximum and eight hours an ideal; a hope that has been an inspiration for agitation ever since.

In 1867, in response to the political movement of labor, the New York state legislature officially declared against a "sun to sun" day and enacted that "eight hours of labor, between the rising and setting of the sun, shall be deemed and held to be a legal day's work in all cases of labor and service by the day, where there is no contract or agreement to the contrary." Experience soon showed that this statute was no more than the expression of a wish for an eight-hour day, as it expressly did not prevent laborers and employers from forming an agreement for overtime. Other states followed the lead of New York with the same kind of statute.

Growing out of years of practical adjustment to which not only laborers and employers but legislatures and courts have been parties, the "require and permit" clause has been more generally introduced wherever statutory enactments have been at all effective. To prevent the exercise of the right to contract for terms other than those established by statute, employers are enjoined from either requiring or permitting employes to work beyond the specified number of hours.

The first generally effective regulation was that of child labor. This group of statutes is too well understood to need extensive analysis. All the states of the union make some provision for child protection, though it cannot be said that it is effective in all cases. The recent federal law goes far in establishing a standard; an ideal for all states and an effective regulation so far as products from

manufacturing establishments generally enter into interstate commerce. Products of mines and quarries are not to be admitted to interstate commerce if within thirty days prior to the removal of the product children under sixteen have been permitted to work. Products of mills, canneries, work shops, factories or manufacturing establishments may not be so admitted in cases where children under fourteen have been permitted to work or children between fourteen and sixteen more than eight hours a day or more than six days a week or after seven o'clock p.m. or before six o'clock a.m. of any day. This leaves many industries uncontrolled and much work yet to be done in the several states.

Legislation to regulate the hours of labor for adult women began early but did not proceed rapidly until comparatively recently. Massachusetts began in 1874. This class of regulatory legislation has now become a generally accepted policy, no fewer than forty-one states having enacted statutes expressly limiting hours of labor for adult women. This class of statutes covers some variety of industries and makes by no means a uniform length day or week. A classification that would indicate all the provisions of these laws must be omitted here. In general it appears that four states and the District of Columbia have an eight-hour day;¹ ten have a nine-hour day;² twenty have a ten-hour day;³ two have an eleven-hour day, but less than a sixty-six-hour week;⁴ and five have laws that are somewhat too complex for this simple classification.⁵ This leaves seven states with no legislation.⁶

Efforts are at present being made through regional or sectional conferences, led by the Consumers' League and the National Women's Trade Union League of America, to secure a greater degree of uniformity in this class of legislation.

General attention has also been turned to the dangerous trades. Here the complexity of actual legislation is somewhat

¹ California, Colorado, Washington and Arizona.

² Arkansas, Maine, Missouri, Nebraska, New York, Texas, Utah, Idaho, Montana and Oklahoma.

³ Connecticut, Delaware, Kansas, Massachusetts, Michigan, Ohio, Pennsylvania, Rhode Island, Wisconsin, Wyoming, Georgia, Kentucky, Louisiana, Maryland, Mississippi, New Jersey, Illinois, North Dakota, South Dakota and Virginia.

⁴ North Carolina and Vermont.

⁵ Oregon, Minnesota, New Hampshire, Tennessee and South Carolina.

⁶ Alabama, Florida, Iowa, Indiana, Nevada, New Mexico and West Virginia.

bewildering. To the more obviously dangerous trades, as mining, smelting and railroading have been added others where the danger is not so apparent. This makes a classification on the basis of dangerous and non-dangerous very difficult in practice. There is, however, a line of development that has been followed in the main and which may be stated as follows: industries dangerous to life and limb; industries more obviously dangerous to health; industries which experts pronounce to be dangerous though not commonly understood to be so; employments related to public utilities and so clothed with a peculiar public interest; industries that from their very nature are continuous, the twenty-four-hour seven-day industries; certain trades where organization is so thorough as to enable the unions to secure legislation; and, finally, industries more generally, in connection with which scientific knowledge of fatigue is related to the issues of social welfare. Space does not permit these developments to be traced at length. The present status only may be described.

The New York statute, as quoted above, has been adopted practically in its original form by several states among which are Pennsylvania, Illinois and Indiana. Still other states seek to define the working day in this indefinite way.⁷ Seven of these stipulate ten hours instead of eight. As has been said, this legislation has had no practical effect in establishing the length of the working day. Yet its potential influence should not be overlooked. As the movement advances it will be easier to recognize these statutes and secure their amendment by attaching the "require or permit" clause than it would be to enact new ones.

The more effective legislation has been enacted in connection with dangerous trades. For work in mines thirteen states have established the eight-hour day.⁸ One other state (Maryland) has a ten-hour limit. Of these same states, eight extend the restriction to smelters as well.

For railroads the legislation is much more complicated. The continuous service required, the division of the work into train operatives, station men, dispatchers, signal men and other branches

⁷ California, Connecticut, Florida, Maine, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, Ohio, Rhode Island and Wisconsin.

⁸ Arizona, California, Colorado, Idaho, Missouri, Montana, Nevada, Oklahoma, Oregon, Pennsylvania, Utah, Washington and Wyoming.

make the regulation of hours more difficult. For train men there is no definite length of day. The Adamson law is but an experiment and even that appears to establish a unit for the adjustment of wages rather than a definite working day. Practically all legislation governing hours of labor for train men, therefore, establishes a maximum number of hours during which a train operative may be permitted to work without rest and further establishes the number of hours of rest that must intervene before work is resumed. The number of hours of labor allowed is usually sixteen. In Georgia and Florida, the number is set at thirteen; in Michigan, twenty-four, in Oregon, fourteen. In some cases eight hours and in others ten hours of rest are required after such a period of work. The number of states with this legislation is twenty-five. Michigan and New York establish a ten-hour limit within twelve consecutive hours.

For telegraph and telephone operatives, dispatchers and signal men, the limit is eight hours in eight states,⁹ and nine hours in four states.¹⁰ Exceptions allowing longer hours are sometimes made where stations are open only by day.

On street railways the regulation is not so general. The Massachusetts law allows only nine hours of work to be performed within eleven consecutive hours for men operating street cars. Ten hours within twelve is permitted in five states,¹¹ and twelve hours in five others.¹²

Much more general is the establishment of the length of day in public works and in contract work done for the public. Eight hours is the legal limit in public employment in twenty-four states, three territories and under the jurisdiction of the United States. In nine of the states the limitation is embodied in the state constitution,¹³ while in the remaining fifteen it is statutory.¹⁴ With

⁹ Arkansas, Connecticut, Maryland, Nevada, New York, Texas, West Virginia, Wisconsin.

¹⁰ Missouri, Nebraska, North Carolina and Oregon.

¹¹ Louisiana, Michigan, New York, Rhode Island and Washington.

¹² California, Maryland, New Jersey, Pennsylvania and South Carolina.

¹³ Arizona, California, Idaho, Montana, New Mexico, Ohio, Oklahoma, Utah and Wyoming.

¹⁴ Colorado, Indiana, Kansas, Kentucky, Massachusetts, Minnesota, Nevada, New Jersey, New York, Oregon, Pennsylvania, Texas, Washington, West Virginia and Wisconsin.

narrower limits the restrictions obtain in three more states.¹⁵ The situation is the same for contract work done for the public, the only exception being that fewer states have embodied the provision in their state constitutions.¹⁶

The list of restrictions in other industries is not altogether brief though no general policy appears to prevail among the several states. For drug clerks California, as a "measure of public health," has specified ten hours a day or sixty hours a week of six consecutive calendar days. New York under the "require or permit" form of statute settles seventy hours a week with an overtime margin in any week for the purpose of a shorter following week, the aggregate hours in any two weeks to be not more than 132, with one full day off in each two weeks.

In bakeries, New Jersey establishes ten hours a day with privilege of longer time for the purpose of a shorter day at the end of the week, the total for the week being limited to sixty hours. Arizona puts an eight-hour limit on electric light and power plants. Nevada limits work in plaster and cement works to eight hours and Arizona the same for cement works. Grocery clerks in New York City have a seventy-hour week and an eleven-hour day except on Saturday. Work in coke ovens and blast furnaces has an eight-hour legal limit in Arizona and Colorado. Missouri establishes eight hours in plate glass works. Rolling and stamp mills are restricted to eight hours in Arizona, Colorado, Idaho and Wyoming. New York and New Jersey regulate time in air pressure tunnel work according to the density of the pressure; for example, when air pressure is between twenty-two and thirty pounds to the square inch, six hours is a day's work to be divided into two three-hour periods with one hour between. Montana regulates irrigation work to eight hours, and telephone operatives to nine. Saw- and planing-mills have a ten-hour day in Arkansas. In cotton and woolen mills Georgia and Maryland have established a ten-hour limit, subject to some complicated details. Mississippi has a general ten-hour day for manufacturing establishments. It cannot be understood that all such regulations are actually effective. To what extent they are positively enforced cannot be so easily stated.

¹⁵ In Connecticut it is restricted to mechanics in state institutions; in Maryland, to the city of Baltimore; and in Missouri, to cities of the second class.

¹⁶ Arizona, Montana, New Mexico, Oklahoma, Ohio and Utah.

By far the most interesting regulation of hours is the Oregon statute, now before the Supreme Court of the United States on the issue of its constitutionality. This law provides that no person shall be employed in any mill, factory or manufacturing establishment for more than ten hours in any one day, except watchmen and employes engaged in making necessary repairs or in case of emergency when life or property is in imminent danger. A three-hour overtime limit is permitted, in which case overtime pay must be at the rate of time-and-one-half. In order to place this statute on a firmer basis than such laws have had in the past, the first section declares the specific purpose of the law:

It is the public policy of the state of Oregon that no person shall be hired nor permitted to work for wages under any conditions or terms for longer hours or days of service than is consistent with his health and physical well-being and ability to promote the general welfare by his increasing usefulness as a healthy and intelligent citizen. It is hereby declared that the working of any person more than ten hours in one day in any mill, factory or manufacturing establishment is injurious to the physical health and well-being of such person and tends to prevent him from acquiring that degree of intelligence that is necessary to make him a useful and desirable citizen of the state.

To make a complete statement of hours of labor in the private industries of the country is quite impossible. The variation is certainly wide. The report of the United States Bureau of Labor Statistics on *Union Scale of Wages and Hours of Labor* (May, 1916, No. 194) gives much information that is doubtless typical. It covers trades and occupations of eleven different groups with information from forty-seven important industrial cities in all parts of the country and includes data from 676,571 union workmen. Reducing the facts to index numbers and stating them comparatively, it appears that between 1907 and 1915 there was a decrease of 3 per cent in the full-time hours per week. As the latest date taken was May first, 1915, the change does not show the effects of the development of the last eighteen months. The decrease in the time since 1907 has been very gradual, remaining at 100 (index number) for the first two years, 99 for the next two years, 98 for the next three and 97 for the last two.¹⁷

There can be no doubt that marked progress in the direction of a shorter day has been made within the past year and a half.

¹⁷ United States Bureau of Labor Statistics, *Bulletin No. 194*, p. 21.

A recent inquiry made by Miss Pickering estimates that over 100,000 laborers have been put on an eight-hour day within the past two years.¹⁸

It may fairly be assumed that the movement will continue unchecked for at least as long as the war continues. What will then happen can be but conjecture. Yet it cannot be supposed that the pronounced movement for a shorter work day is due solely to the war. It was clearly in evidence before the war began. It may receive a temporary check if the post-bellum conditions prove to be as disheartening as many would lead us to expect. It can be but temporary, however. The indications point quite clearly to that conclusion. "Sooner or later the eight-hour day will be universal," so many employers are quoted as saying. Many of these have demonstrated by actual trial that the eight-hour day increases output. Mr. Henry Ford is not alone in the conclusions that have been so widely quoted from him.

Agitation will continue, accompanied by strikes if necessary as well as by more legislation. At a recent meeting of the Building Trades Department of the American Federation of Labor resolutions were introduced suggesting a six-hour day for all unions of building mechanics as a solution of the unemployment problem. The Metal Trades Department called for an eight-hour day in the ship-building industry. The Labor Center Association of New York is organizing a campaign for a universal eight-hour day, supplying liberal quantities of material for propaganda with the popular slogan: "For the Eight-Hour Day; a Movement Toward Justice."

The inevitable extension of the limitations on the hours of labor for women must have its effect on shortening hours for men also. Experience shows that this legislation "effects a corresponding reduction in the hours of labor for men in many establishments in which both men and women are employed."¹⁹

In a more scientific spirit the subject is being studied in several fields. Inquiry is being made regarding laws governing the working time of hospital employes and nurses, and opinions are being gathered on the advantages of such laws. The results are to be presented at the next meeting of the American Hospital Associa-

¹⁸ *Survey*, April 1, 1916, p. 5.

¹⁹ *Report, Massachusetts Statistics of Labor for 1915*, Pt. VI, p. 42.

tion. In Massachusetts there is a recess legislative committee studying conditions of labor in continuous or twenty-four-hour industries. At the request of a body of thirty-three manufacturers of Milwaukee, a careful investigation of the effects of the eight-hour day in the factories of the state of Wisconsin will be made. The United States Public Health Service will study the conditions of Wisconsin women workers to determine proper hours of labor, and the Wisconsin Industrial Commission will act upon the suggestions made in the report. In the Report on *National Vitality* by the Committee of One Hundred on Public Health, one of the "things which need to be done" is stated as follows (page 128): "employers may greatly aid the health movement . . . by providing . . . physiological (generally shorter) hours of work. . . ."

The direction of the movement is unmistakable. It has not only the support of organized labor, of many reformers and public-spirited leaders; but many of the more enlightened employers of labor find it possible to combine their philanthropic inclinations with good business policy in shortening the hours of labor in their establishments. It is beyond question true, as President Wilson has recently said: "The eight-hour day now undoubtedly has the sanction of the judgment of society in its favor." To what extent the changes may be carried by law is a question that especially now is in the balance. Should the United States Supreme Court uphold the decision of the supreme court of Oregon in declaring the constitutionality of the Oregon statute above referred to, the way will be much easier for relating hours of labor to social welfare than it has hitherto been. If not, the way will be more difficult; progress will be slower, but on the whole and in the long run none the less certain.

MAXIMUM VS. MINIMUM HOUR LEGISLATION

BY RICHARD A. FEISS,

Manager of the Clothcraft Shops, Cleveland.

1. Public opinion is back of the movement to shorten hours and I am heartily in favor of this movement. A different view, however, should be taken in working this out from that which has been taken in the past. I believe that there are two distinct phases to this question: first, that hours should not be so long as to cause fatigue, and second, that when this length of hours has been reached, it is very desirable still further to shorten hours as a reward for efficiency.

2. Generally speaking, the desirability of the second has been confused with the first and has led to drastic and unintelligent legislation without consideration of the facts. In my opinion the scope of legislation should be strictly limited to the first proposition. If such legislation is to be based upon facts, the result will not be an arbitrarily hard and fast limitation of an eight-hour day or a forty-eight-hour week applied to all indiscriminately, regardless of conditions.

3. If we are to consider the facts, the industry itself must be taken into consideration from every point of view. In other words, there are conditions inherent in the nature of the industry that should govern the situation. In some industries women are required to perform hard manual work while standing in water or confined to work rooms that have to be especially heated to a very high degree of temperature. It is apparent that the maximum limitation of hours in such an industry should be vastly different from that in an industry having good wholesome surroundings and requiring only a minimum of physical effort.

4. Moreover, in order that the great mass of workers in a scientific organization may work the minimum of hours, it is essential that a few, whose business it is to prepare their work and whose actual efforts are generally semi-clerical and intermittently performed, work a greater length of hours than would be considered a proper standard for the general working force. For example, it

will be generally conceded that the great mass of executive work of an organization requires a longer time for its performance than that of the general body of workers in the shop. Practical legislation must not only take this fact into consideration but must also provide for the large amount of semi-executive work which is also essential in a well organized plant to insure against the usual delays and other obstacles in furnishing work to the worker. This does not mean that the principle of limitation of hours should not be applied to all. In fact it is just as essential to have the hours of office and bank clerks, household servants and others included in maximum hour legislation as those of any other class of work. I believe, however, that legislation should take into consideration all the facts and conditions and should not make any general provisions, rather making limitations dependent upon industry, occupation and other specific conditions.

5. In the construction of legislation of this nature I wish particularly to call attention to the desirability of having limitations set rather for the week than for the day. Limitations for the day should be of such a nature as to permit weekly limitations of hours to be used up in any five days in the week. Investigations are bringing us more and more to realize that cumulative rest periods at the end of the week are more valuable than shorter rest periods scattered through the week. We believe that further investigation will undoubtedly prove that it is a most beneficial plan for workers to work somewhat longer periods during five days in the week in order to get two days of complete relaxation at the end of the week. It is our opinion that in the near future the ideal week for the worker will consist of five full days of work and two full days of rest. Unintelligent legislation is one of the greatest obstacles to this attainment.

6. I wish particularly to call attention to the fact that the sphere of legislation should consist in setting maximum limitations. Very often the minimum or at least the actual standard desired is set up as the maximum, the practical result being quite different from that intended by those who support this kind of legislation. Naturally, the result is neither sound nor fair.

7. In the vast majority of industries, and in fact in all industries involving consecutive or continuous manufacture, it is absolutely essential that a small group of workers work a little more than normal hours occasionally in order that the remainder of the workers in

the business do not materially suffer. These extra hours of overtime, while sincerely deprecated by all, do not, however, become a burden, because in the ordinary course of things they are distributed and occasionally fall on this group and occasionally on that group of workers. In its effect upon any one group it amounts to a very small fraction of time, but it is very essential to the rest of the organization and should be provided for by intelligent legislation. To provide for the above practical contingency the maximum limitation of hours can be set somewhat higher than the actual effect desired. For example, if the maximum is fifty or fifty-two hours a week, the average regular time in a factory will necessarily be about forty-eight hours or less.

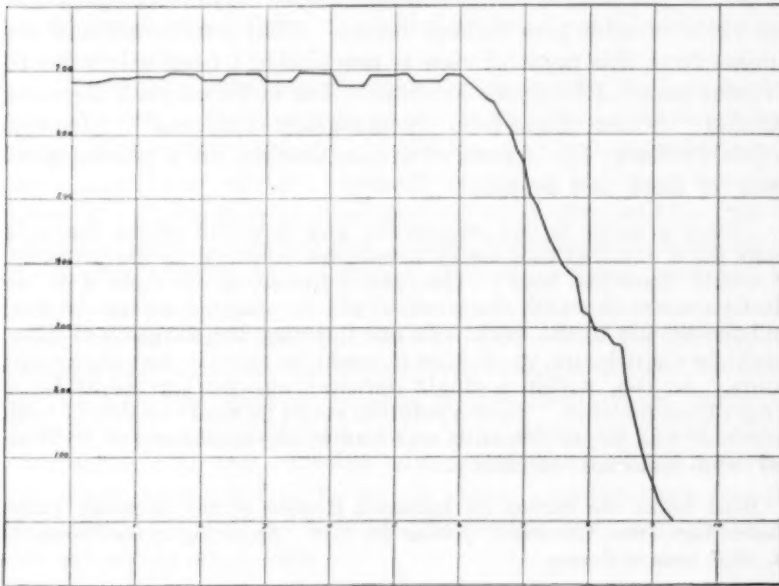


Fig. I will show the chart of a typical day's work in a scientifically managed factory. This will illustrate the fact that, where work consists of a series of consecutive operations, the length of time worked by different operators varies considerably, and while in this instance there are a very few operators whose work covers a period of nine hours or a little over, the working time of the vast majority is considerably less. So the record for any week's work in

the same factory would show a few operators working about fifty hours, while the actual hours of work average between forty-three and forty-four.

Another way to meet contingencies of this kind is to have the law provide for a standard working schedule to be properly posted in every work room with a certain additional number of hours extra time permitted with certain other restrictions. There are of course many other ways for meeting this and similar contingencies which have to be faced in the practical working out of legislation of this kind. The chief thing to my mind in the working out of reasonable legislation should be the taking into consideration of facts and their results and a full realization that the facts in each case should be the subject of scientific investigation by experts. That the opinion of experts is valuable goes without saying. That consideration of the subject from this point of view is practicable I need only refer to a recent paper of Professor Frederic S. Lee of Columbia University entitled "Is the Eight-hour Working-day Rational?"¹ In this article Professor Lee speaks of a classification, on a physiological basis, of work and workers:

Such a study is not impossible, and it would afford the only basis for a rational and really intelligent solution of the problem. It would doubtless lead to the establishment of no rigid, but an elastic system in which the work would be adapted to the worker, and the worker to the work. In one industry the duration of labor might be eight hours, in another it might be more or less than eight hours. So too, within a single industry one worker might labor longer than another. Such a solution could be made to satisfy both economic and social demands and lead to the maximum of individual and national efficiency.

¹ Read before the Section on Industrial Hygiene of the American Public Health Association, Cincinnati, October 25, 1916. Appearing in the November 24, 1916, issue of *Science*.

PROGRESS OF THE PUBLIC EMPLOYMENT BUREAUS

BY HENRY G. HODGES,

Instructor, Municipal Administration, Western Reserve University,
Cleveland, Ohio.

Our annual crop of governors' messages for 1915 brought forth from all points of the compass alarming conditions of unemployment.¹ During the winter of 1914-1915, mayors in all parts of the United States were appointing "Unemployment Commissions" to enlighten the public on the actual conditions and to suggest the remedies.

The most popular remedy that suggested itself to these citizen committees was the establishment of public free employment bureaus. Hence the avalanche of legislation that was rushed through state legislatures and city councils providing for these bureaus. There are, at the present time, public free employment bureaus in 152 cities in the United States.² These bureaus are operated under the auspices of city, state or nation, some cities being taken care of by more than one agency. The federal government has been operating for the past two years, a system of labor exchanges through its eighteen distribution zones. Twenty-three states are now conducting more or less efficient systems of free employment bureaus.³ Four of these, *viz.*, California, Iowa, New Jersey and Pennsylvania have taken over this function within the past eighteen months. The whole movement, so far as the states are concerned, had its beginning in the Ohio law of 1890. No development of consequence was attempted until 1905.

¹ Note particularly those of Governor Hunt, Arizona; Governor Johnson, California; Governor Capper, Kansas; Governor Willis, Ohio; Governor West, Oregon; and Governor Lister, Washington.

² Bulletin, United States Bureau of Labor Statistics. Whole number 192. May, 1916, pp. 144-5.

³ California, Colorado, Connecticut, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, West Virginia and Wisconsin.

The sudden death of those conditions which gave rise to the recent abnormal growth of the public free employment idea is the outstanding characteristic of the past year. The Public Affairs Information Service, under date of November 10, 1916, observes, "There were no references made in the messages of the governors with reference to public employment bureaus in 1916." The man and the job have reversed positions; the latter is now on the hunt for the former. The federal branch at Buffalo, New York, reports "a great demand for labor of all kinds." The inspector in charge of the New York City branch writes that "the demand for labor of all sorts is far in excess of the supply." From the Iowa Bureau of Labor Statistics comes this statement: "During the past three months it has been impossible to supply the demand for laborers throughout the state, and the situation is a little worse just at this time as a great many laborers are leaving for the farms to pick corn."⁴ Conditions are even worse in Ohio, where a Cleveland paper reports an influx of 2,500 southern negroes to that city in ten months, attracted by a continually increasing wage scale.⁵ James P. Robbins, inspector in charge of the Philadelphia federal bureau, reported on October 14, 1916, that he had "active opportunities right now for at least 5,000 miners and mine laborers," and that "the demand for first class laborers at twenty-three cents an hour and upwards, is practically unlimited." The New York State Bureau of Statistics and Information is responsible for the statement that between August, 1914 and August, 1916, the number of employes in that state increased 22 per cent, while the increase in wages was 43 per cent.⁶

In spite of these glittering possibilities from the standpoint of the workman, the public employment bureaus have had some work, even in hunting for jobs. The director of employment in Kansas City, Missouri, was presented with a task of no mean proportions when the Third Missouri Regiment returned to that city, from the Mexican border. And so it goes; general conditions have exceptions, and their oscillations are more or less regular. The employment bureau

⁴ Letter, dated October 13, 1916, from J. C. Nietzel, Chief Clerk, Bureau of Labor Statistics.

⁵ *Cleveland Plain Dealer*, October 20, 1916.

⁶ *The Bulletin* Issued monthly by the New York State Industrial Commission. Vol. I, No. 12, September, 1916, p. 19.

is one of the *regulators* that tends to keep the pendulum hovering about its lowest point.

The first attitude of the large employer of labor, uninfluenced by the experience of actual dealings with the public employment bureau, is one of accord. The average "big" business man is, in principle, sympathetic with the basic idea of the public employment bureau, *viz.*, direction of the workman to a job, without compensation. The director of the employment department of the Ford Motor Company, of Detroit, says: "It is against our policy, absolutely, to hire any man who has to pay any one for a job, and our opinion is that we have better success otherwise."⁷ The employment manager for the Cleveland Hardware Company, a concern employing several thousand men, is of the same opinion.⁸ One of the largest employers in Buffalo, New York, suggests that he has "never employed a private agency, on the theory that a man whose services are at all desirable will go out and get his own job."

With the original attitude of the large employer so favorable to the principle upon which the public employment bureau is founded, how shall we account for so much of the subsequent dissatisfaction that develops? Are these free bureaus performing the functions, within their sphere, with that degree of efficiency which we may reasonably expect?

One method often employed for testing the efficiency of the public bureaus is the resort to statistics. How does the number of jobs filled this year compare with last? What is the relative cost to the state for each position filled? What is the proportion between the number of applicants for positions and those actually placed? Comparisons of such results from year to year within a single state, between the bureaus of the various states, and between the several employes of a given bureau, are looked upon by many as criteria of progress. It is not so much the number of positions filled by the employment bureau as it is the satisfaction given both parties—employer and employe—by the transaction. This element of human satisfaction does not appear in the statistical bal-

⁷ In a letter to the writer, dated October 28, 1916.

⁸ "It has always seemed to me that it is unfair for a man to have to pay a private employment bureau for a job, and I do believe that a free employment bureau would be a great benefit to the man coming to a strange city."—F. G. Douglass, Manager, Employment Department, October 27, 1916.

ance sheet. The placement that cost the state ten cents may be worth ten dollars, in results accomplished, while the placement that cost only five cents may be actually valued at less than nothing.

What are some of the complaints of the chief customers of the public bureau?

The most usual cause for adverse criticism on the part of the business man in his dealings with public agencies, is the "political" element which seems to him to dominate. The present case is no exception to that rule. The Buffalo concern, previously referred to, agrees that "the most serious objection is that the offices are largely of a political nature, and even though the clerk in charge may be on the civil service list, he usually feels that he owes allegiance to some state politician." Dr. H. C. Person, Director of the Tuck School of Dartmouth College,⁹ a school whose business it is to train employment managers, informs me that the inquiries which he is continually receiving, asking him to recommend graduates for employment departments, invariably come from private concerns. Referring to the opportunities for their men in the public service, he said: "My feeling is that political conditions are so strong that there will not be much call for the men."

One business man, in noting that politicians are paid salaries rather than wages, explained that a salary is what you get, while a wage is what you earn. He further noted that wage-earners are not prolific among political appointees. An interesting fact is that most of the poor results in this field that may be attributed to political appointments are caused by the comparatively low salaries attached to the positions. The usual salary of \$1,200 is not attractive to a qualified employment manager.¹⁰ This figure eliminates him immediately from consideration. Usually the available material consists of either mediocre politicians or those ordinary mortals who are able to pass a low grade civil service examination where there is little competition. These men are very poorly equipped for their duties, with neither experience nor training. Added to this poor equipment, the office often suffers from a kaleidoscopic personnel, thanks to political exigencies. The photo-

⁹ Consult 1916-1917 Bulletin, The Amos Tuck School of Administration and Finance, Hanover, New Hampshire, p. 31.

¹⁰ The Colorado law, which is typical, provides a tenure of two years for the local superintendents, with a salary of \$1,200. (Colorado Statutes, Sess. L, 1907, p. 292.)

graphic reproduction of a reply to an inquiry, from a \$1,500 local superintendent, illustrates the point.

Jan 1-15-
Sir _____

Dear Sir
I have referred
your letter to Mr _____
of _____ who can furnish you
more information than I can. you
better in communication with him
Yours very truly

Sup free employment Bureau

Photographic reproduction of a letter received from the superintendent of a local public employment bureau. This letter was written in lead pencil. The man's salary is \$1,500.

Mr. Chas. B. Barnes, Director of the New York State Bureau of Employment, states that when he was visiting most of the public employment offices in the United States in the interest of the United States Industrial Relations Commission, he found "that the general conception of public employment offices was rather low. This led to the appointment of any sort of man who needed to be paid for his political work."

Another explanation that the large employer gives for not making the public employment bureau his regular servant, is the contention that they supply, as a rule, only the lower grades of help. The John Wanamaker Store, Philadelphia, rarely uses the public bureau because they "do not include, to much of a degree, the needs of a retail merchandising establishment. Consequently the private agencies render more efficient service."¹¹

¹¹ Letter of October 27, 1916.

This is one of the hardest things the efficient public agency has to combat. A number have been successful. The Los Angeles, California, report for 1915, contends that that bureau is ready to supply any kind of help. As proof it notes the placement of a court stenographer at ten dollars a day, a vice-president and general manager at \$250 per month, and a collector at \$150 per month. The federal agent at Kansas City tells of his struggles to overcome the same "prejudice."

Success in obtaining and developing the good opinion of the employer, without which the office is foredoomed to failure, depends on the personality and calibre of the local superintendent. This feature must first of all be taken care of in the law providing for the bureau. After provision has been made for a practical civil service examination (written and oral), the law should provide for such funds as will permit attractive initial salaries, and possibilities for increases as the occasion warrants. The combination of a civil service test and an attractive salary is the surest way to ward off the unfit political appointee. One private agency in Detroit pays its manager sixteen dollars a day.¹² What chance has the public bureau in that city to compete successfully against the skill and experience of such a private agency manager?

In spite of these well known facts, many of our state systems are without proper financial support. Some legislatures have actually passed laws establishing free bureaus without providing any funds at all. It is evident that in such cases petty politics were rife from the start, and it was probably fortunate that no appropriation was made. Several bills were introduced into the California legislature before one was finally passed. The first one that passed the legislature was not signed because the state Bureau of Labor Statistics felt that the appropriation was inadequate to carry on the work. After these many hold-ups California obtained an excellent bill and a fair appropriation. Maryland's first act, in force until last year, granted \$1,000 for the annual upkeep of the system.

There are many cases in which the man in charge has had practically no experience at the work, but is actually interested and eager to master his subject. Several letters from superintendents conclude with the request to be furnished with any printed

¹² *Bulletin No. 192*, United States Bureau of Labor Statistics, p. 23.

matter of interest on the subject. The central offices, of the state and federal systems would do well to make an active effort to keep their field men systematically supplied with appropriate literature and suggestions. The federal Bureau of Labor Statistics has made a beginning in this direction. The local men are probably not so much stimulated by periodical doses of comparative statistics as they would be by readable accounts, with results, of what their fellow workers are doing in various parts of the country. Statistics, although they may at times be stimulating, rarely awaken a vision, even in the trained mind.

There are many and varied developers of business known to the private employment agency. Some of their methods have been adopted by the public agencies, and in several cases carried to more advantageous conclusions. There is a general admission, on all sides, of the superior ability of the private agency solicitors when in competition with the public bureaus. Of course, the private agency has the advantage of being able to divide the spoils with the person who has final decision in placing workmen. But the fact is that in most cases the public bureau makes no attempt at personal solicitation. Here, again, funds are necessary. Many of the public agencies could not solicit through a representative if they wished to.

Where personal visits are impossible the mail and 'phone have been used to great advantage by the more progressive superintendents in going after new business. Mr. C. L. Keep, the federal agent at San Diego, California, has an attractive form letter that he addresses to everyone inserting a help wanted advertisement in the local papers. He reports a remarkable success for this device. The letter is often saved by the employer for future reference.

The use of interpreters in employment offices in certain sections of the country adds greatly to their popularity. It is one of the boasts of the Milwaukee, Wisconsin, office that its force represents a combined speaking knowledge of eighteen different languages.

Publicity is one of the essential features of the successful office. The newspapers must be convinced of the mutual benefits to be derived from running daily free advertisements for the public bureau. Feature stories serve to keep the successful local bureau constantly before the public eye. Several public bureaus complain of lack of funds for newspaper advertising, while several others who

are most active in point of newspaper publicity point to the fact that they never pay for any of it. Much publicity is obtained through bulletins in post-offices and other public buildings. The Wisconsin offices send representatives to make brief addresses, covering the functions of the bureau, at county fairs and farm institutes. In line with their general policy to "Boost Missouri" the bureaus of that state utilize the backs of letter heads and envelopes to help advertise themselves. These suggestions represent only a few of the more important ways in which the progressive office obtains its publicity.

FOR HIGH GRADE HELP

WRITE, WIRE OR PHONE

STATE FREE EMPLOYMENT OFFICES

ST. LOUIS:	917a Pine Street	Phones, Main 3184, Central 4953
KANSAS CITY:	215 Sheidley Bldg.,	Phone, Main 4204
ST. JOSEPH:	110 N. Seventh Street	Phone, Main 1439

Labor of All Kinds Furnished No Charge for the Service

Mr. Charles B. Barnes, Director of the New York State bureaus, and probably one of the most efficient men in the service, has instituted many new features in the system of which he has charge. He makes it a rule to visit each branch office every month. These visits last from one to three days. The branch superintendents send to the general office, at the end of each month, a "general letter" which discusses anything of interest to the director or to the superintendents of the other branches. Such features undoubtedly develop that *esprit* essential to a satisfactory service.

Next in importance to adequate financial support, the word coöperation must certainly be the guiding star if the public employment bureau is to be a considerable factor in relieving the stress of

labor problems. Coöperation has to extend itself throughout every ramification of the service. It seems almost impossible that a federal employment agent could write in November, 1916:

I have had very little correspondence with other bureaus—in fact, they do not seem to know how to coöperate. The agent of the state-city bureau in ——— called on me once, but he did not impress me favorably in the least. He reminded me too much of his past deeds and accomplishments in a political way, and didn't drop even a hint as to how our work could be bettered.

This condition, however, should hardly be considered as typical. The Nebraska system, although it is far from being a leader in the general field, due to the meagreness of the appropriation, has achieved an excellent coöperation in its handling of harvest hands for the state. An annual bulletin, issued in June, and prepared after a thorough survey of every county, deals with crop conditions and harvest field needs. This bulletin considers those needs in actual figures, based on the estimates of the individual farmers.

There may be coöperation in numberless ways. The women's department of the Kansas City bureau has rallied the active support of the various alumnae societies in the city. The aid of rural postmasters is often used to advantage. These offices become, in effect, sub-bureaus. The public school system is directly interested in the vocational guidance work undertaken by some of the older bureaus. The success of this phase of the work varies directly with the intensity of the coöperation between the two organizations concerned.

Coöperation among the various bureaus, municipal, state and national, is the final step in this program of coördination and centralization. We have many instances of the state and city working together in city-state bureaus. The paramount consideration in the establishment of the federal system was the providing of means for the proper distribution of labor over the country, as a whole. These federal bureaus are coöperating, in a few particulars, with many of the state and city bureaus. In Los Angeles the federal bureau joined the city-state bureau to establish a city-state-federal bureau. The first advantage of such a union is the mail franking privilege which the federal representative brings to the office. In this particular instance, the combination made it possible to send out two solicitors with automobiles to visit the large employers.

Coöperation in this field is still in its infancy. It might be used, when more fully developed, to provide a uniform system of

reports and records. Records have value chiefly as they furnish means of comparison. The present method of multi-form records robs them of most of this value. An adequate uniform system of records throughout the country would furnish the basis for future progress in the management of the local office.

Every time an organization of public employment bureau managers meets, it considers the possibility of eliminating the private bureau. This elimination was the subject of one of the five resolutions passed by the American Association of Public Employment Offices at its Indianapolis meeting, September 25, 1914.¹³ The evil practices of the private offices are limited only by the ingenuity of their managers.¹⁴ There is, we would venture, a large percentage of the private agencies operating on an open and business basis, and performing a very desirable function in the locality served. These agencies should not be legislated out of existence, it seems to me, until a satisfactory substitute is assured. The question to be decided in this connection is whether or not the public agencies have covered the field, and covered it successfully. When the answer to this question is a reasonable affirmative, the decent private agencies should be made to suffer for the sins of their less respectable brothers, and the system abolished. The constitutional provision relating to the confiscation of property will not be overlooked by the vested interests in private agencies.

The incontrovertible logic of the situation would tend to suggest that as the public agencies surpass the private in services rendered, the private will be weeded out by natural forces. Of course, there would be lingering instances of an unnatural existence where the private agency was in league with the employment agents of large companies, under an agreement to split the fees. But the experienced and efficient manager of the public bureau would soon find ways and means to undermine these personal deals. Few concerns are in business for the benefit of their employment agents. It is as unprofitable to the employer to pay wages to a continuous stream

¹³ "Resolved, That this association go on record as favoring the elimination, as soon as possible, of all private employment agencies operating for a profit within the United States, and that it recommends to the consideration of the United States Commission on Industrial Relations and the various state legislatures legislation having this end in view."

¹⁴ For an outline of some of these practices see an article by the author in *The Annals* of May, 1915.

of green men as it is profitable to the private agent. Broad powers of supervision and control (properly administered) of private agents is a reasonable protection until such time as they shall be eliminated by competition with the public bureaus.

The public bureaus have not been altogether relieved, as yet, from the national suspicion of labor organizations. That original suspicion is spending its force as the public bureaus demonstrate their attitude, time after time, in cases where there are labor disputes. President Gompers, of the American Federation of Labor, writes me that the investigation of the public bureaus, ordered by the Executive Council of the Federation, has not been completed. While the public bureaus are investigating the conduct of the private agencies, they themselves are being subjected to a critical examination by our leading national labor organization.

In conclusion, it seems clearly evident that the usefulness and competence of the public bureaus have increased during the past two years.¹⁵ Most of the road is still ahead, and the obstacles are many. The important steps forward, after a fair civil service is provided for, will logically depend on a kind of round-robin, beginning and ending with the legislature. This body must be influenced, in the first place, to vote enough funds to attract a competent and trained personnel. The high salaries will tend to relieve the service of its burden of petty political workers. The efficient performance of the new personnel will win the confidence of the people—employers and employes alike—and make inexpedient the subsequent use of the office for partisan politics, as was illustrated in the attempted dismissal of Mr. Hennesey in Cleveland.¹⁶ Finally, through the

¹⁵ Kentucky and Nebraska still present very poor examples of a state's attempt to serve employer and unemployed. Maryland has reorganized its system, and made some improvement over last year—not a very difficult task. South Dakota's system is almost worthless. Nebraska, on account of lack of funds, confines its efforts to assisting with the harvests. The new bureaus, established in Pennsylvania and California, are first class.

¹⁶ Mr. Hennesey, formerly superintendent of the Cleveland city-state office, rendered such service to his city in the winter of 1914-1915 that he gained a wide popularity, and distinction for efficiency. Being a state officer there was a strong intimation from Columbus of his dismissal, shortly after the politics of the state administration changed in 1915. Immediately, there was such organized protest on the part of the people of Cleveland that all mention of a change in the city-state employment office ceased. Mr. Hennesey resigned, voluntarily, in 1916, to accept the secretaryship of the Cleveland Builders' Exchange.

pressure of public opinion, those interested in the work will be able to induce the legislature to advance additional funds for further expansion and more intensive work. This plan represents the safest, and probably the ultimate method for eliminating the private agency and developing the functions of the public bureaus. While this method is disposing of the undesirable element among the private agencies, the municipal, state and federal officers in charge of such work can advance their own interests and those of the public by inducing the first class private agencies to become a part of the public system.

A FEDERAL LABOR RESERVE BOARD FOR THE UNEMPLOYED

OUTLINES OF A PLAN FOR ADMINISTERING THE REMEDIES FOR UNEMPLOYMENT

BY WILLIAM M. LEISERSON,

Professor of Political and Social Science, Toledo University.

In dealing with unemployment the point has been reached where we must have administrative machinery to put practical remedies into effect. The theoretical analysis of the problem is complete. The general nature of the facts is well known, the evils are undisputed, the principal remedies have been logically deduced and their soundness has been established. Says Sidney Webb, the London publicist who has given years of study to the subject of unemployment, "*the problem is now soluble, theoretically at once, and practically as soon as we care to have it solved.*"¹

The remedies for unemployment are not new. Napoleon instructed his ministers to prosecute public works to keep labor employed at home. Horace Greeley advocated public employment bureaus in the *New York Tribune* more than sixty years ago. And labor unions have been paying out-of-work benefits for more than a quarter of a century. These same measures—labor exchanges, unemployment insurance and the prosecution of public works in times of depression—are the remedies advanced by all intelligent students of the subject today.

Why then have we made so little progress toward putting these well-known remedies into effect? Why must the unemployed suffer every winter and why are we overwhelmed by the problem every ten or fifteen years? It would seem to be because we have given too little attention to the administrative measures necessary to make the remedies for unemployment practical and effective. Legislators have hesitated to enact laws that contained no machinery to make the remedies work out successfully. Especially was this true after

¹ Preface to a Bibliography on *Unemployment and the Unemployed* prepared by F. Isabel Taylor, London, 1909, p. vii. Mr. Webb together with his wife Beatrice Webb played a most important part in working out the comprehensive system of labor exchanges and unemployment insurance now in operation in Great Britain.

several states had enacted employment office laws which failed to accomplish their purposes.

When the British Royal Commission on the Poor Laws reported in 1909 that "it is now administratively possible . . . to remedy most of the evils of unemployment, to the same extent, at least, as we have in the past century diminished the death rate from fever," it had available plans for labor exchanges and unemployment insurance with the details of their administration well worked out. And it was not long after the commission reported that the plans were adopted by Parliament. In this country we have had many investigations of unemployment but the reports have usually contained recommendations of a most general nature with little attention given to describing the administrative machinery necessary to put remedies into practical effect.

When Congress undertakes to act on this most perplexing problem it will want to know not so much that labor exchanges, insurance, etc., are advocated to relieve distress from unemployment, but rather just how these measures can be practically and successfully administered. In the hope of meeting the need for such information in part at least, we attempt to outline here the structure and organization of a national labor reserve board and to describe the manner in which such a board might apply the principles and administer the remedies which a century of investigation and analysis of unemployment has proved necessary and desirable.

WHY A LABOR RESERVE BOARD?

The first question that might well be asked is, "why should this administrative organization take the form of a labor reserve board? Is the labor market so analogous to the money market? Can the labor supply be contracted, expanded and shifted around in the country to meet varying needs, as money and credits can be?"

The answer is that, while the problems of the labor market are not exactly analogous to the problems of the money market, there is a fundamental similarity. Both are problems of irregularity of employment, the one of capital, the other of labor. The main reason for advocating a labor reserve board is that the Federal Reserve Board already in existence is an administrative machine created for the purpose of dealing with fluctuations, with varying, irregular demands for capital. The problem of unemployment is also a prob-

lem of fluctuations, of irregular demands. Although labor is essentially different from capital, and a labor reserve board may have to do quite different things from the financial reserve board, nevertheless the administrative organization for dealing with irregular and fluctuating demands for labor will have to be similar to the organization that deals with fluctuations for money and credits.

To appreciate the comparison it must be understood that unemployment is not a problem of a superfluous army of workers beyond the country's needs. Every careful student of the subject has pointed out that the unemployed are a necessary labor reserve, *irregularly employed and not permanently unemployed*. The progress of industry, improvements in machinery and methods, seasonal trades and the recurrence of prosperity and depression make this reserve necessary and inevitable. There could be no industry as we know it and no industrial progress without such a reserve, any more than there could be safety from fire if there were no firemen waiting for the call whenever it should come. And if we banished half of our wage-earners today the other half would soon arrange itself in such a way that at any given time some would be working and others would be waiting—unemployed. These reserves, however, are temporarily, not permanently, out of work. At any given time the unemployed are but a sample of the reserves. The unemployed man, as one authority puts it, is an industrial factor, not a parasite upon industry.²

Statistically this irregular employment is represented by the fluctuating line showing percentage of workers unemployed. "Can you see in your mind's eye," asks Mr. Paul Warburg, a member of the Federal Reserve Board, "the curve representing the fluctuations of our past interest rates? You will find it a wild, zigzag line rapidly moving up and down between more than one hundred per cent and one per cent. Teach the country to watch that curve in the future,

² The picture we commonly have in our minds about unemployment is the cartoonist's caricature—a long line of hungry hoboes waiting for meals and lodging—"Our Standing Army." But this does not accurately describe the problem. A truthful illustration is that recently published in a report on the Unemployed in Philadelphia (*Steadying Employment*, by J. H. Willits, Supplement to *The Annals*, May, 1916). This shows a revolving platform with working men being constantly thrown off and jumping on again, and bearing the legend "The Industrial Roulette Wheel—Off Again—On Again—Fired Again."

the straighter the line, the smaller its fluctuations, the greater will be the beneficent effects of our system."³

What is it, then, that the reserve board is doing? It is trying to regularize the employment of capital, to remove fluctuations and to make it more steady. Look at any chart showing the curve of employment and you will find a similar zigzag line fluctuating between more than forty per cent unemployed and a minimum of about three per cent. The recurrence of busy and slack seasons in different industries and the industrial cycle of prosperity and depression which show themselves in the employment curve are paralleled in charts published by the Monetary Commission showing fluctuations in interest rates. And if we look to the conditions which the United States Monetary Commission found in the money market, we may see that the reasons given for the creation of a money reserve board will also hold for a labor reserve board.

THE MONEY MARKET

The Monetary Commission reported as follows:

1. We have no provision for the concentration of the cash reserves of the banks and for their mobilization and use wherever needed in times of trouble. Experience has shown that the scattered cash reserves of our banks are inadequate for purposes of assistance or defense at such times.

2. We lack means to insure such effective coöperation on the part of banks as is necessary to protect their own and the public interests in times of stress or crisis. There is no coöperation of any kind among banks outside the clearing house cities. While clearing house organizations of

THE LABOR MARKET

Could not this be paraphrased to read?

1. We have no provision for the concentration of the labor reserves of the various industries, and for their mobilization and use wherever needed. Experience has shown that the scattered labor reserves maintained by each employer and each industry make for duplication and unnecessarily large reserves.

2. We lack means to insure such effective coöperation of employers and employment agencies to protect the interests of the unemployed as well as of the public. There is no coöperation of any kind among employers or employment agencies except where the former main-

³ The Federal Reserve System.

banks have been able to render valuable services within a limited sphere the lack of means to secure their coöperation or affiliation in broader fields makes it impossible to use these to prevent panics or to avert calamitous disturbances affecting the country at large.

3. We have no power to enforce the adoption of uniform standards with regard to capital, reserves, examinations, and the character and publicity of reports of all banks in different sections of the country.

4. The narrow character of our discount market, results in sending the surplus money of all sections, to New York, where it is usually loaned out on call on stock exchange securities, tending to promote dangerous speculation and inevitably leading to injurious disturbances to reserves.

tain a blacklisting bureau and the latter get large enough fees to divide between several labor agents. While state labor departments have been able to render valuable services within a limited sphere where they have had a central office for several public employment bureaus, the lack of means to secure their coöperation on a national scale and the limited nature of their activities, make it impossible to use these to mitigate the effects of great industrial depressions.

3. We have no power to enforce the adoption of uniform standards with regard to records, methods of management, publicity and reports of all employment agencies public and private in different sections of the country.

4. The narrow character of our market for labor (depending on the connections which the individual worker can himself establish) results in sending the labor reserves of all sections to New York, Chicago and other very large industrial centers, where it is usually possible to pick up an odd job when regular employment fails. This tends to promote parasitic industries based on cheap labor and inevitably leads to under-employment and exploitation of the surplus labor reserves.

5. We have no effective agency covering the entire country which affords necessary facilities for making domestic exchanges between different localities and sections, or which can prevent disastrous disruption of all such exchanges in times of serious trouble.

6. We have no instrumentality that can deal effectively with the broad questions which, from an international standpoint, affect the credit and status of the United States as one of the great financial powers of the world.

7. Our system lacks an agency whose influence can be made effective in securing greater uniformity, steadiness and reasonableness of rates of discount in all parts of the country.

5. We have no effective agency covering the entire country which affords necessary facilities for directing our migratory workers to different localities and sections, or which can mobilize the public work of the country to prevent disastrous industrial crises.

6. We have no instrumentality that can deal effectively with the industrial cycles of prosperity and depression, international in their scope, the markets and labor demands of the United States as one of the great industrial nations of the world.

7. Our system lacks an agency whose influence can be made effective in securing greater uniformity and steadiness of employment, and reasonable rates of pay for labor in all parts of the country.

There is the parallel so far as it can be drawn. Analysis of the labor market shows that labor reserves are made unnecessarily large and unemployment increased by each employer keeping a full reserve for himself. If provision were made for mobilizing the reserves at central labor exchanges the same workers might be used by different employers and the total reserves could be reduced, just as banks connected with the federal reserve system now keep only a fifteen per cent cash reserve instead of twenty-five per cent required before the reserve board was established. Private labor agencies are uncontrolled when they operate across state lines. They scatter the labor reserves and exploit the unemployed, while the operations of public employment agencies are restricted to small areas and their influence limited. Industrial depressions are accentuated by

governments cutting off funds for public work in hard times, when an effective national agency might save from prosperous times part of the public work and mobilize all of it in hard times and use it to create demand for labor and thus offset the industrial depression.

WHAT SHALL THE LABOR RESERVE BOARD DO?

We need no more investigating commissions to tell us that the first step in any program of dealing with unemployment must be to organize a national system of labor exchanges. Just as the first work of the Federal Reserve Board was to unite all the banks of the country into one system, so the first duty of the Labor Reserve Board must be to organize all the employment offices of the country into one system of labor exchanges.

But how to organize that national labor exchange system? What sort of a system shall it be—and how administered?

There has been much loose talk about the federal government establishing employment offices, like post offices, throughout the country, or making the post offices do the work of employment bureaus. No federal labor exchange system can be successful that ignores the existence of the state and municipal employment offices. There are now about one hundred of them in more than half the states, and some of them have reached a high degree of efficiency and influence in their communities.⁴ For the federal government to duplicate their work or to try to compete with them would seem most unwise. And coöperation or dividing the field between local employment offices conducted by the United States government and others conducted by the states is out of the question until all offices have a common understanding of what their work and their methods should be, and are under the direction of one central agency. The Federal Reserve Board did not establish new local banks. It welded the existing banking institutions into one national organization, while yet allowing them much freedom to develop in their own ways. It is just that sort of a labor exchange system that must be constructed out of the existing employment offices.

The recognition of this has led many people to advocate "clearing houses" for employment agencies to be established by the United States government without giving a definite idea of how such clearing

⁴See *Monthly Review of the United States Bureau of Labor Statistics and Bulletin No. 192*.

houses would operate. There is no doubt that a labor exchange system will need district offices, similar to the twelve federal reserve banks for the banking system. But these cannot be created, cannot have any real work to do until the local offices have been put under national control, their records and business methods standardized, their management made uniform. At the present time they vary so in their organization and methods that neither comparison nor coöperation among them is possible.

To lay the foundations, therefore, and to create the administrative machinery for a labor exchange system, the Federal Labor Reserve Board will establish a central bureau in Washington and build up a force of employes trained in methods of organizing and managing employment offices, in devising and keeping records, in collecting and studying labor market statistics and in supervising the work of local employment bureaus. With this force the federal board can aid states and cities in establishing employment bureaus, help in devising plans of organization for them, assist in installing uniform systems of records and management, and supervise their work to maintain minimum standards of service and efficiency.

As an inducement to state and city employment offices to join the national system, the Labor Reserve Board might give each local bureau a number as a branch of a United States labor exchange, and offer to each bureau which affiliated as a branch and adopted the minimum standards the franking privilege, for its postage, a privilege which is now enjoyed only by the federal offices. Plans are now afoot for grants in aid of vocational education, road building and other matters of national concern. A Labor Reserve Board might recommend federal aid to the states to bring their employment bureaus up to a national standard of efficiency and to induce them to deal with unemployment in conformity with a national plan.

Instead of establishing clearing houses with uncertain duties, the Federal Labor Reserve Board, if it is careful, will create district offices in different parts of the country for the purpose of licensing and regulating private labor agencies doing an interstate business. The purpose of this regulation should be to drive the dishonest agents out of business and to bring the rest under the control of the national labor exchange system until such time as the people decide to keep private individuals out of the employment business entirely. This regulation is an immediate need. There are probably close to 5,000

private labor agencies in the country. In the work of regulation the government officials would get the knowledge and experience necessary to conduct large-scale public labor exchanges, and when both the public and the private offices have been standardized and brought under national control, it would then be plain whether the District Offices could function as clearing houses and just how they should do it.

The essential duty of a system of labor exchanges is, of course, to distribute reliable information regarding labor supply and demand, and to connect the two as quickly as possible. As a means of accomplishing this a *Labor Market Bulletin* of some kind is necessary. Such a bulletin must be designed to overcome the evils that now result from indiscriminate publicity given by newspapers. It is obvious that the genuineness of demands for labor must first be established, but even though the statements of demand are absolutely true, it is none the less mischievous to distribute them indiscriminately through the press or post office. Forty thousand men may really be needed in Kansas, but over 100,000 may respond to the call, unless the traveling in answer to the call is controlled by local employment offices. This has actually happened, and it is for this reason that the American Association of Public Employment Offices has gone on record against the widespread distribution of labor market bulletins.

Instead of such a scheme of widespread distribution, the Federal Labor Reserve Board will therefore issue a bulletin intended primarily for employment bureau officials, just as the *Federal Reserve Board Bulletin* is intended primarily for bankers. From this abstracts will be made for newspapers, but never in such a way as to lead workers to travel to a distant place for work without making certain of an opening there by applying to the local branch of the labor exchange.

OTHER WORK OF THE LABOR RESERVE BOARD

There are other important administrative questions which need consideration.

First among them is the policy of using public work to regularize the labor market. Here again the financial reserve board can offer an example to a labor reserve board.

The aim of the federal reserve system, to quote Mr. Warburg again, must . . . be to keep this gigantic structure of loans and investments . . . both from over-contracting, and, as well, from over-expanding, so that, as the natural and inevitable result, it may not be forced to contract. . . . Effectively to deal with the fluctuations of so gigantic a total is a vast undertaking. If the task is to be accomplished successfully, it cannot be by operations which are continuous and of equal force at all times, but only by carrying out a very definite policy which will not only employ funds with vigor at certain times, but, with equal determination, will refuse to employ funds at others. . . . To bring about stability of interest rates, . . . judicious withholding, and in turn judicious employment by the Federal Reserve Banks, of their lending power . . . are necessary.*

By such a policy of withholding and offering the Federal Reserve Board, with a lending power of only \$600,000,000, is able to steady and stabilize the operations of banks and trust companies with loans and investments amounting to \$13,000,000,000.

How much our governments might do to keep the labor market from over-contracting and over-expanding by withholding public work in time of active labor demand and prosecuting such work vigorously in times of depression, we can only guess at until we have a Federal Labor Reserve Board to devise the plan of mobilizing the work of national, state and local governments and of judiciously withholding the prosecution of such work. In England it has been estimated that if 3 or 4 per cent of the public work were saved in prosperous years, to be used in years of depression, enough would be accumulated to make up the reduction in pay roll caused by the depression. How the government may "employ funds with vigor at certain times," and "with determination . . . refuse to employ funds at others" is a policy which can be successfully determined only by a permanent Labor Reserve Board.

Second, the collection of information regarding the opportunities for self-employment in the United States, particularly on the land. The Labor Reserve Board must study and devise methods and machinery for helping workers to acquire land on easy payments, and for securing small homesteads in suburban districts for city workers. When the factory slows down let the wage-earner have a garden to work. It can be made to supplement his income considerably and may be one of the most effective remedies for unemployment, as Rowntree's study in Belgium has shown. Mr.

* *Federal Reserve Bulletin*, March, 1916, p. 103.

Crosser's bill (H. R. 11329) is a step in the right direction when it provides for unifying and harmonizing the duties and powers relating to distribution of labor and land settlement with a view to recommendations for further legislation. But this as well as the work of the National Colonization Board which the bill proposes to create would be much better accomplished by a Federal Labor Reserve Board that administers the fundamental machinery of the labor market, the labor exchanges.

Third, the board must work to prevent trades and industries from becoming overcrowded, oversupplied with laborers. The industries and localities which are growing and in need of labor will be made known and warnings issued against the trades and places which are oversupplied with labor and where unemployment is most prevalent. This service will be connected with the schools to enable them to guide juvenile workers into promising employments; and the immigration service also will be assisted in directing new workers into fields where their labor is needed and in preventing them from lowering standards by overcrowding trades.

Finally the duty of the Labor Reserve Board must be to devise a method of administering unemployment insurance in this country, and to conduct such a system in connection with the public labor exchanges. Until this can be accomplished it will encourage and assist workers to insure themselves against unemployment, help trade unions to establish and extend out-of-work benefits and show public authorities how unemployment insurance can be practically conducted to relieve distress among the workers and encourage policies of prevention of unemployment among employers.

It will be noted that aside from the conduct of employment bureaus the functions of the Labor Reserve Board are stated in the most general terms. The practical details of shifting public work, colonizing unsettled land, helping workers acquire homesteads and guiding young people and immigrants into desirable vocations require further investigation before Congress can legislate. The law can create the labor-exchange machinery at once. For the rest the Labor Reserve Board will conduct a permanent laboratory and be the responsible authority for studying unemployment, devising remedies and making recommendations to Congress, just as the Reserve Board handles new problems in the money market.

HOW THE LABOR RESERVE BOARD WILL BE ORGANIZED

We can hardly hope that our government will do as it did with the money question, hire a board of five highly trained men and pay them each \$12,000 a year to work out the problems of the labor market. At least, not till labor is much more powerful in the councils of the nation than it is at present.

A good beginning, however, can be made by making the Secretary of Labor and the Commissioner of Labor Statistics ex-officio members of the Federal Labor Reserve Board, just as the Secretary of the Treasury and the Comptroller of the Currency are members of the financial reserve board. In addition the Secretary of Commerce, as representing the other side of the labor bargain, should be appointed and also the Secretary of Agriculture. To these can be added a Commissioner of Employment appointed by the President. The five men will then constitute the Federal Labor Reserve Board of which the Commissioner of Employment will be chairman. The relation of the board to the Department of Labor should be the same as that of the Federal Reserve Board to the Treasury Department, independent and free to experiment and strike out along new lines, but always in close connection with the department that handles all labor problems.

As a beginning toward building up the expert force a Director of Labor Exchanges should be appointed which later might be followed by a Director of Public Works, Director of Unemployment Insurance, etc. When the organization is fully developed these officials might themselves be the Labor Reserve Board, but for a beginning the other form of organization would be sufficient.

The Director of Labor Exchanges should be Secretary and chief responsible officer of the board. He should also act as Secretary of the Advisory Council, which must be an important part of any labor reserve system, the organization and functions of which we must now consider.

ADVISORY COUNCIL

No plan of dealing with unemployment can expect to succeed which does not recognize the conflict of interests between labor and capital. The neglect of this in the organization of our state employment bureaus has been largely responsible for their ineffectiveness. If we do not recognize the struggle frankly and bring it out into the

open under public scrutiny, it will go on in the dark behind our backs, each side seeking to gain control of the labor reserve machinery to promote its own purposes.

In the organization of the financial reserve board there were three interests to be considered. There were first the business men and the bankers; and the authorities representing the public constituted the third interest. The Federal Reserve Act met the problem of these conflicting interests by creating an Advisory Council composed of one member selected by the Director of each Federal Reserve Bank. These directors in turn were divided into three classes, one-third of them representing the banks in the reserve district, another third representing the business men, and the other third appointed by the Federal Reserve Board to represent the public.

Similarly the Labor Reserve Board must have a federal Advisory Council to represent conflicting interests. The organized employers and the organized workers of the country should each be called upon to nominate representatives, and the states and cities which conduct public employment bureaus might be given the same privilege. Three or five members from each of these interests appointed by the President would constitute the Advisory Council to meet in Washington four times a year or oftener with the Labor Reserve Board just as the Advisory Council of the financial reserve system meets with its board.

The council will advise and assist in all matters dealt with by the Labor Reserve Board. Questions of policy, proposed investigations and all rules and regulations for the administration of the labor reserve system would be submitted to this council. No rule or policy will be adopted until it has first been considered by the council. The board need not necessarily be bound by the action of the council, but the votes and the opinions of the interests represented should be recorded and made public, so that policies which may become political questions can be kept in the open, decided by the people and by Congress, and not left to the manipulation of one side or the other.

An additional, most important function of the council would be to aid in the selection of the staff that is employed by the board. The staff, of course, will be in the classified civil service, but a prime qualification of the officials must be impartiality as between labor

and capital. Only such candidates should be placed on the eligible lists as have the confidence of the representatives of labor and capital on the Advisory Council. The ratings that these representatives give must be made a part of the examination, which necessarily will consist largely of oral interviews.

This form of civil service is to be applied not only to subordinate employes, but to all officials of the labor reserve system including the Director of Labor Exchanges. These officers have no political policies to decide and should have a secure tenure of office so that they can make a career of the service and acquire the knowledge necessary to handle the complicated problems with which they will have to deal. In recent years the classified service has been extended with remarkable success to include very high grade positions, and the experience of states like Wisconsin and New York where the directors of the labor exchanges are in the classified service argues for the adoption of a similar plan in a federal employment system.

CONCLUSION

All these questions of administrative detail are important, because, as we noted at the beginning, we have reached the point in dealing with unemployment where the theoretical questions have been solved and the principles of practical administration must now be emphasized. This most important work has been flagrantly neglected by economists and social workers alike. We shall be years in getting anything like an adequate plan of dealing with unemployment unless we begin at once to study the detailed problems of administration and to train men who will be able effectively to administer the remedies.

Back in 1892 and 1893 we had mass meetings of the unemployed, work-shops, soup houses, committees of all kinds and hunger parades. Interest in unemployment was aroused in every city of the land. But what was left of it when the depression passed away? How much of the result could be used in the hard times of 1913 and 1914? Nothing permanent was created. And when the last crisis came along we had the same parades, the same committees, work-shops and soup houses. Oh yes! And we added the "Hotels de Gink"!

And what have we as a result of all this last agitation? Only some improved and efficient public employment bureaus, in New

York, Ohio and Illinois. But the reason we have even these meager results is because some employment officials had seen how little they knew about running their bureaus and had organized a national association which worked out details for proper and successful administration of the bureaus. The agitation when harnessed to their practical plans brought some real results. But what else of permanent accomplishment for the future can we point to? Most of the steam went off in the air—lost—because we had nothing definite which we could make drive.

Let us create the machinery of a Federal Labor Reserve System now, and when the next wave of unemployment comes it may drive this machinery toward a solution of the problem.

THE EXTENT OF TRADE UNIONISM

BY LEO WOLMAN,
University of Michigan.

The quantitative analysis of phenomena is assuming in the study of the science of economics a position of increasing importance. Recognition is at last, if grudgingly, being given to the fact that discussions of the influence of economic forces and tendencies are of great or of little value in proportion as there exists some numerical measure of the strength or extent of these forces. Particularly is this the case where the discussion is concerned with the intricate problem of tracing the influence of such an institution as modern trade unionism. A prerequisite to an intelligent study of the labor movement consists in an accurate statistical estimate of the extent and ramifications of the movement. While it is of course true that the influence of a movement is frequently out of all proportion to the numbers participating in it, as in the case of the Industrial Workers of the World, a knowledge of the statistics of increase and decrease in membership will even in such a case throw considerable light upon the successive rise and decline in influence.

I

The problem of determining the extent of trade unionism in a country can be attacked first by registering the absolute membership of labor organizations and then by calculating the ratio of this membership to the industrial population of the country.¹ The first step, because of the present disorganization in the collection of this form of labor statistics in the United States, necessitates laborious compilation from a large number of scattered sources. Beyond this, although some slight difference of opinion may exist as to the definition of a trade union and hence as to the statistical limits of the study, the problem is one of mere enumeration. With regard, however, to the calculation of the relative extent of trade

¹ For a comprehensive discussion of this whole subject see the author's article on "The Extent of Labor Organization in the United States in 1910," *Quarterly Journal of Economics*, May, 1916, p. 486.

unionism, the difficulties are many and real. If a trade union be defined as a voluntary organization of wage-earners, an accurate index of the numerical extent of the trade union movement would be the ratio of the total membership of trade unions to the wage-earning population. Unfortunately, no attempt is made in the census to distinguish a wage-earning class; and previous to the publication of the *Census of Occupations of 1910*, which contains a much more detailed analysis of the occupational distribution of the working population than can be found in any earlier census, not even a reliable estimate of the extent of a wage-earning class was feasible. With the material that is now available, however, it is possible, by making rough deductions of those groups included in the *Census of Occupations of 1910* that are clearly comprised by members of the employing and salaried classes, to obtain a reasonably accurate basis for calculating the extent of trade unionism among the wage-earners of the United States.

The total membership of trade unions in the United States in 1910 was 2,116,317; in the same year the total number of persons gainfully engaged in industry in this country was 38,134,712. The members of trade unions, therefore, constituted in the last census year 5.5 per cent of the industrial population of the United States. This percentage, however, appreciably underestimates the strength of the trade union movement because of the inclusion, in the aggregate of persons "gainfully engaged" in industry, of members of the employing and salaried classes. By combining those groups in industry that are composed of members of the employing, salaried and fee-receiving classes, such as merchants, managers and clergymen, a total for this group of 10,939,808 is obtained. Accordingly, the wage-earning class in 1910 can be said to have numbered 27,194,904 persons; and of this number 7.7 per cent were members of labor organizations. Adherents of the labor movement would maintain that this last index, based upon a group that includes such wage-earners as agricultural laborers, domestic servants, and clerks, was still not fairly indicative of the actual strength and extent of trade unionism. They would use as a basis for the calculation of the percentage of organization that group of wage-earners which the modern trade union makes definite and sustained efforts to organize. Since no such efforts have been made, until the present at least, to organize agricultural laborers and domestic servants, because

of their condition of individual isolation, and because the social and economic status of such employes as clerks and stenographers precludes any large extension in organization among that class of workers, it is contended that a fair estimate of the extent of labor organization can be based only upon a group in which these classes are not included. Furthermore, practically every trade union has established an age limit below which it will not admit workmen in the industry into membership in the union. The average lower age limit for all trade unions may be roughly stated at twenty years. When all persons engaged in industry as agricultural laborers, in domestic and personal service, in such occupations as stenographers and saleswomen, and also persons below the age of twenty be combined and the total for this group be deducted from the 27,000,000 wage-earners in the United States in 1910, a resulting group of 11,490,944 persons, who may be characterized as constituting a potential trade union membership, is obtained. And with this class as a basis, the degree of organization is found to be 18.4 per cent. Accordingly, the most conservative survey of the situation would indicate that in the United States in 1910, 92.3 per cent of the wage-earners were unorganized; whereas, the most liberal estimates would show that 81.6 per cent of those persons who are susceptible of organization were without the trade union.

The foregoing statement must be qualified in one important respect. A large factor in the relative extent of trade unionism is the territorial distribution of the working force of the nation. The influence upon the growth of labor organizations of the urbanization and concentration of industry is well known to every student of industrial history. It is generally true that, where workmen live in thinly settled communities and work in small establishments, the rise and growth of trade unions is long retarded. It is this condition that, to a great extent, explains the surprisingly low percentage of organization. Large numbers of carpenters and bricklayers, for example, are to be found in the rural sections of the country. Even though such workmen may constitute potential competitors of laborers in the urban districts, the union finds it not only difficult but also undesirable to organize them because of the expense of propaganda and of organization. If, therefore, it were possible to calculate the extent of organization among workmen living in cities of 10,000 population and over, the available data on the subject lead

one to believe that the percentage would be much higher than for the country as a whole.²

II

The trade union movement is naturally made up of relatively strong and relatively weak component parts. In some industries the unions have attained an absolutely and relatively large membership, while in others the degree of organization is so small as to be almost negligible. It would be desirable, therefore, to classify the various industries according to the strength of the organization, with a view to throwing some light upon the causes of low and high percentages of organization. The absence of practically any organization among agricultural laborers, and among those employed in domestic and personal service and in clerical service has already been noted.³ The subsequent discussion will be limited to the mechanical and manufacturing, extractive, transportation and building industries. For the purposes of analysis the industries are classified into three groups. The first group is composed of the highly organized industries or those having an organization of over 30 per cent; the second group contains those industries that are fairly organized and in which the extent of organization lies between 15 and 30 per cent; the last group of poorly organized industries is comprised of those having an organization of less than 15 per cent. The following table presents the industries of the first group:

Name of industry	Number of persons in industry	Percentage organized
Breweries.....	55,413	88.8
Marble and stone yards.....	55,558	45.4
Printing and bookbinding.....	249,456	34.3
Glass factories.....	83,641	34.2
Mining.....	834,456	30.5
Total.....	1,278,524	

Of the five industries included in this table, three are organized along occupational lines and two industrially. In the marble and

² George E. Barnett, "Trade Agreements and Industrial Education," *Bulletin No. 22*, National Society for the Promotion of Industrial Education, p. 3.

³ There were approximately 6,000,000 agricultural laborers in the United States in 1910; only several hundred were members of trade unions. Of the 5,265,818 persons employed in domestic and personal service and as clerical workers, less than 2 per cent were organized.

stone yards, printing and bookbinding industry, and glass factories the ratio of the number of skilled to unskilled workmen is comparatively high; and the high degree of organization in these industries is to be explained by the high percentage of organization among the skilled workmen. In mines and breweries, however, although the relative amount of unskilled labor is somewhat greater than in the first three cases, the adoption of the industrial form of organization, together with other factors, has effected as high a degree of organization as where the ratio of skilled workmen is somewhat greater. The unusually high percentage in breweries is attributed to the effective use by the United Brewery Workmen of the boycott as an organizing device.

In the next table are given those industries that show an organization from 15 to 30 per cent:

Name of industry	Number of persons in industry	Percentage organized
Cigar and tobacco.....	170,904	27.3
Potteries.....	26,369	21.9
Transportation.....	2,862,260	17.3
Clothing.....	608,892	16.9
Building trades.....	2,444,395	16.2
Total.....	6,112,820	

The facts elicited in the discussion of the first table are for the most part confirmed by the evidence contained in the second. Defining an occupation in the broader sense as including closely related forms of labor, it is not improper to state that the unions claiming jurisdiction over the various operatives in each of the foregoing industries are all trade or occupational unions. Furthermore, the ratio of unskilled to skilled workmen is appreciably higher in this than in the first group of industries. Whatever organization does exist is to be found in the main among the skilled workers. This is notably the case in the building and transportation industries where such skilled workmen as locomotive engineers and bricklayers are highly organized whereas the unskilled maintenance of way employes and building laborers are totally unorganized. In the clothing industry there is still room for a considerable extension of organization even among the skilled or semi-skilled operatives; here, however, the policy of the union and the changing character of the labor force in the industry have constituted serious obstacles to increased

organization. In the manufacture of cigars and tobacco, also, the problem has been not only one of organizing unskilled workers and of opening the union of the skilled to the unskilled, but the difficulty of organizing the latter has been greatly enhanced by effective opposition to unionism from the American Tobacco Company.

The last table is composed of those industries that have an organization of less than 15 per cent:

Name of industry	Number of persons in industry	Percentage or- ganized
Leather.....	293,035	14.5
Electric light and power.....	252,883	14.3
Lumber and furniture.....	597,174	10.7
Iron and steel.....	1,746,387	9.9
Food and kindred products.....	299,176	7.6
Quarrying.....	85,919	7.3
Metal.....	320,041	4.7
Textile.....	800,251	3.7
Paper and pulp.....	101,797	2.6
Chemical and allied industries.....	73,585	0.4
Total.....	4,570,248	

The high correlation between skill and extent of organization is again the most striking feature of this table. Where trade unionism is most extensive, the great bulk of trade unionists are skilled workmen. The iron and steel industry, for example, shows an organization of 9.9 per cent; but practically all of the organization exists among such skilled workmen as iron molders and pattern makers. The unskilled laborers in the steel mills, over whom the Amalgamated Association of Iron, Steel, and Tin Workers claims jurisdiction, have an organization of probably less than 2 per cent. The same situation exists in the leather, lumber, textile, paper and chemical industries. Another, and perhaps a more important, element responsible for the lack of organization in several of these industries is the concentration of ownership which places in the hands of the managers of the industry various means for combating the growth of organization. The persistent opposition of the United States Steel Corporation, the International Paper Company, and of the American Woolen Company to trade unionism has been as potent a factor in hindering the organization of their employes as the presence in these industries of large numbers of unskilled laborers.

The American labor movement, however, is almost completely, in the strict sense of the term, a trade union movement. Only in recent years has there been any palpable extension in the direction of industrial organization. The extent to which the industries of the country are organized does not for this reason indicate with the greatest accuracy the success of labor organizations in organizing those workers over whom the individual organizations claim jurisdiction—that is, those workingmen who are employed in well-defined and in, for the most part, skilled trades. The foregoing analysis should accordingly be supplemented by a survey of the extent of organization in the more important occupational or trade divisions of industry. Unfortunately, the available material does not permit of an exhaustive treatment, but it is possible to obtain a sufficient number of occupations to warrant guarded generalization.

Excluding from the discussion those occupations in which there was no organization, of the thirty-three trades concerning which statistics were obtainable, five—railway conductors, electrotypers, brakemen, locomotive engineers, and stonecutters—were from 50 per cent to 100 per cent organized. In the next group of occupations, from 30 to 50 per cent organized, were brick masons, printers, locomotive firemen, mail carriers, molders, pattern makers, plasterers, potters, and woolsorters. The third and largest group, comprised by trades from 15 to 30 per cent organized, included bakers, barbers, bartenders, bookbinders, carpenters, coopers, loomfixers, metal polishers, painters, plumbers, switchmen, tinsmiths and woodcarvers. And in the final class, with an organization of less than 15 per cent, were blacksmiths, brickmakers, glove workers, machinists, teamsters and waiters.

In practically all occupations the percentage of organization is higher than in the various industrial divisions; and this is the natural result of the occupational character of the typical American labor union. Where these organizations have expended the greatest efforts, they have met with the most signal success. Beyond this, however, differences in organization can as before be explained by the varying proportions in different industries and occupations of skilled and unskilled workmen.

A summary of the situation in 1910 would indicate that the small percentage of organization is due primarily to four factors: 1. The great bulk of the unorganized workers live in small towns and

rural districts where their inaccessibility and dispersion make organization both difficult and, if not undesirable, at least not pressing. 2. Of almost equal importance as a problem of organization is the unskilled worker. By reason of the large supply of unskilled labor and the ease with which it may be replaced, organization of the unskilled has, up to the present at least, made little progress. 3. A somewhat greater success in organizing the unskilled laborers seems to have been attained by the use of the industrial form of organization than by the trade union. It should be noted, however, that, although the majority of American unions are nominally occupational organizations, many are rapidly assuming the character of industrial unions. 4. Finally, the concentration of ownership, combined with a hostility to labor organizations, has constituted in most cases an insurmountable barrier to the labor organizer.

III

Trade unionism has in this country made little progress in organizing woman labor. The temporary character of the labor of women, their youth, and the fact that in the great majority of instances their wages are designed to supplement the family income have all constituted serious obstacles to their organization.⁴ Accordingly, of the 8,075,000 women "gainfully engaged" in industry in the United States in 1910, 73,800 or only 0.9 per cent were members of labor organizations. And if deductions, similar to those made above, are made of those women engaged in employing and salaried positions, in agriculture, domestic and personal service, professional service, and as clerical workers, a residuum of 1,819,741 women, having an organization of only 4.1 per cent, is obtained. In only one industry is there what might be considered a relatively high percentage of organization; of the 2,407 females employed in the liquor and beverage industries, from 20 to 30 per cent were members of the union. In the clothing industries, where the number of female workers is large, organization ranges from only 10 to 15 per cent. The same is true of the more important occupations in which there are large numbers of female employees. The highest percentage of organization in all occupations is among the bookbinders of whom

⁴ For an authoritative account of the characteristics of woman labor, see C. E. Persons, "Women's Work and Wages in the United States," *Quarterly Journal of Economics*, February, 1915, p. 201.

less than 20 per cent are organized. It is probable that since 1910 the proportion of organized female labor has increased rapidly. In the period from 1910 to 1913, for instance, the female membership of American unions increased more rapidly than their total membership. One explanation for this disproportionate increase is, of course, to be ascribed to the small number of female unionists in the basic year of 1910. It is still true, however, that a significant factor in the increase has been the organization of women in industries in which the trade union has for the first time secured a foothold among the female employees.

IV

Of perhaps greater interest and importance than the ascertainment of the extent of labor organization in any one year would be the determination of the relative growth of organization over a long period of years. In the only exhaustive study of the growth of labor organization in this country,⁵ Professor Barnett finds that from 1897 to 1914 the membership of American trade unions increased from 444,500 to 2,674,400; the maximum membership in this period being 2,701,000 in 1913. By using the method of interpolation, he calculated the industrial population in the years 1897 and 1914. With these as a basis, the 445,000 trade union members in 1897 were seen to constitute 1.66 per cent of the number of gainfully occupied persons in that year; whereas, in 1914, the 2,674,400 trade unionists constituted 6.28 per cent of the gainfully occupied. In the period under discussion, therefore, the trade unions showed a substantial relative as well as an absolute increase in membership. The relation between the growth in membership and the growth in the number of wage-earners can unfortunately be calculated for only the census years. Here, too, Professor Barnett has roughly calculated the wage-earning population in the United States in 1900 and 1910; in the former year the trade union membership was four per cent of the number of wage-earners and in 1910 seven per cent of the wage-earners were members of labor organizations.

In the period from 1910 to 1913, it is likely that the increase in the membership of unions kept pace with the increase in the number of wage-earners. The industrial depression in 1914 caused

⁵ George E. Barnett, "Growth of Labor Organization in the United States, 1897-1914," *Quarterly Journal of Economics*, August, 1916, p. 780.

a significant decrease in membership. Since 1914 there has probably been a large absolute and relative growth of trade unions, due primarily to the great expansion in industry in this country following the outbreak of the European War. It is well known that in times of industrial prosperity and of sharp demand for labor, the growth of labor organization is rapid; in times of depression, on the other hand, membership either remains stationary or suffers a slight fall. During the last year or more, not only has there been an enormous industrial expansion and a consequent scarcity of labor, but this scarcity has been greatly accentuated by the unprecedented decrease in the volume of immigration. The net effect of these forces should be, first, a large increase in the absolute membership of labor unions and second, a corresponding increase in its growth relative to the increase in the number of wage-earners. That there has been in the last year a remarkable growth in the membership of trade unions is evident from the facts contained in contemporary reports on trade unions; and that the second circumstance is being effected, it is not, in the light of present conditions, unreasonable to assume.

LABOR'S SHARE OF THE SOCIAL PRODUCT

By BASIL M. MANLY,

Washington, D. C.

The threatened strike of the railroad brotherhoods came very near bringing the American people face to face with the fundamental problem of wealth distribution. In all previous strikes of national consequence the workers have come asking for a living wage or for the maintenance of an accustomed standard of living. But here were four hundred thousand men demanding not a living wage but a larger share—what they termed their fair share—of the social product. They asked, it is true, to have their share partly in increased leisure and partly in higher wages, but none the less the demand was simple and unequivocal.

To any observer in touch with the labor movement in the United States, there are unmistakable signs that in future the demands, not only of railroad employes, but of all classes of workers, will be pitched upon the same level. There will, of course, continue to be justification of demands on grounds of necessity, efficiency and ethics, but the predominant note will be a demand that labor shall have an ever increasing share of the social product,—of the newly created wealth of the nation.

This demand will come not only from industrial workers, but from working farmers, whether tenants or owners. Whether it will tend to include all forms of service performed for salaries and wages, from top to bottom, is a question that it is idle to debate, although there are indications of a strong tendency toward this extension of the conception of labor, notably the unionization of actors and federal employes. With this shift in the basis of labor's demands, it becomes of great practical as well as theoretical importance that the collection and analysis of information regarding the existing distribution of wealth and the study of past tendencies should proceed as rapidly as possible.

In the brief space of this paper I have no intention of entering into any extended discussion of the general facts regarding the present or past distribution of wealth. All that I shall attempt is to present a few figures relating directly to the steel industry, princi-

pally as illustrative of methods of approach to the broader field. Other figures which I have collected indicate that the conclusions which may be drawn from these tables are typical of the entire field of corporate industry.

During the last few years a vast amount of data relating to costs of production has become available. In their crude form these data are almost valueless as indicating labor's share of the product. Usually they relate only to a single process, and any conclusions drawn from them are almost certain to be misleading. But where they become sufficiently complete to permit a product to be followed through completely from the extractive process until a finished form is reached, they become extremely valuable.

This method may be called for convenience that of "cumulative labor costs." It consists simply in following each product through all its stages from the extraction of the raw material to the creation of the finished product, adding each consecutive element of labor costs to those that have gone before, after making due allowance for the waste of material in each step. For example, in making woolen yarn the labor cost of raising, shearing, transporting, cleaning, carding and spinning all the wool that goes into a unit of product and into waste must be calculated and not simply the amount represented by the weight of the finished yarn.

In the accompanying table is shown the cumulative cost of all the labor that enters into the production of a ton of steel bars, known in the industry as "merchant" bars. This includes the labor of mining the ore and limestone, mining and coking the coal, transporting all three to the blast furnace, smelting the raw materials to form pig iron, converting the pig iron to steel ingots by means of the Bessemer process, rolling the ingots to form billets, and finally reheating the billets and rolling them down to form merchant bars. This is the most elaborate process in the steel industry proper, but the total cost of all the labor, involving several men altogether, was only \$9.40, or 35.3 per cent of the total integrated cost of production. At the time these costs were calculated merchant bars were selling for \$34.75 a ton f. o. b. mills. Labor therefore received 27 per cent of the total value of the product. In this connection it should be remembered that the steel corporation, to which these costs apply, does not buy any raw materials, but mines coal, ore and limestone on its own properties.

CUMULATIVE TOTAL LABOR COSTS OF STEEL INDUSTRY FROM EXTRACTIVE PROCESSES TO FINISHED PRODUCT, 1902 TO 1906
 Compiled from Report of the Commissioner of Corporations on the Steel Industry, Part III Full Report on Cost of Production
 May 6, 1913—Tons of 2,240 pounds are used, except for Coke, 2,000 pounds

PRODUCT	MATERIALS	1 Tons of raw ma- terial used per ton of product	2 Labor cost per ton of raw material	3 Total labor cost, on amount of material used per ton of product 1X2	4 Cost per ton of labor con- sumed with pro- duction of product		5 Labor cost in transporta- tion ¹		6 Cumula- tive labor cost per ton of product 3+4+5	7 Total in- tegrated cost of produc- tion per ton	8 Per cent which cu- mulative labor cost is of total integrated cost 6+7
							Per ton	Total			
Bessemer Pig Iron	(Lake Superior Ores { Beehive Coke { Limestone	1.835 1.311 .500	\$0.45 .97 .24	\$0.83 1.27 .12	\$2.22	\$0.77	\$0.26 .17 .22	\$0.69	\$3.08	\$12.10	30.6
Bessemer Billet Ingots,	Pig Iron	1.111	3.68	4.08	.57				4.65	15.47	30.0
Large Bessemer Billets,	Bessemer Billet Ingots	1.111	4.65	5.10	.55				5.71	17.90	31.9
Merchant Bars ..	Large Bessemer Billets	1.111	5.71	6.34	3.06				9.40	26.60 ²	35.3

¹ From tabulation made of total operating expenses set forth in suits before the Interstate Commerce Commission for a number of trains it was ascertained that the wages of crews and helpers constituted 12½ per cent of the entire operating expense. The total rail and lake freight on a ton of ore is given at \$2.03 per ton and the freight on coke at \$1.36. Twelve and one-half per cent of these rates gives the amount of labor per ton in transportation here stated.

² Calculated from book cost by taking integrated costs for Large Bessemer Billets and allowing loss of 10 per cent.

The capital employed in the steel corporation, represented by its stocks and bonds, does not get all of the difference between labor cost and selling price, for there are heavy costs for transportation, and materials for repairs and rebuilding which go to outsiders, although it may be remarked parenthetically that the same interests which control the steel corporation get the lion's share of these "outside" costs.

The group that is principally affected by the contest of labor for a larger share of the product are the common stockholders. Information regarding the actual distribution of the ownership of the common stock is therefore of the greatest interest. In the accompanying table are presented data which show not only the number of stockholders owning each number of shares of United States Steel common stock, but also the approximate amount of stock held by each group. These figures relate to 1911, but the proportions hold true today.

UNITED STATES STEEL CORPORATION
DISTRIBUTION OF COMMON STOCK, 1911

Number of shares	Number of shareholders	Per cent	Value of stock owned	Per cent
1	2,994	8.5	299,400	0.5
2	2,086	5.9	417,200	
3	1,287	3.7	386,100	
4	604	1.7	241,600	
5	2,440	6.9	1,220,000	
6 to 10	6,989	19.8	5,591,200	1.1
11 to 25	6,399	18.1	11,518,200	2.3
26 to 50	4,786	13.6	18,186,800	3.6
51 to 100	3,478	9.9	26,085,000	5.2
101 to 500	2,673	7.6	53,460,000	10.4
501 to 1000	426	1.2	31,950,000	6.3
1000 and over	1,068	3.0	358,945,000	70.6
Total	35,230	100.0	508,302,500	100.0

In considering this table it must be remembered that the steel corporation is always cited as the most conspicuous example of widely distributed stock. This wide distribution as a matter of fact

arises primarily from its policy of selling stock to its employees upon easy terms.

The essential facts to be noted are that the holders of less than twenty-five shares (\$2,500 par value) constituting approximately 65 per cent of the total number of stockholders actually owned only 4 per cent of the stock, while the 1,068 stockholders (less than 3 per cent) with more than 1,000 shares owned 70.6 per cent of all the stock.

Essentially the same condition exists in every American corporation. During the past year I have examined nearly 300 stockholders' lists and have found that taking them all together,—big companies and little companies, banks, railroads and industrials—less than 2 per cent of the stockholders owning 1,000 shares or more hold more than half of the entire stock.

It is this concentration of ownership in the hands of a small number of exceedingly wealthy people that will sharpen labor's determination to increase its share of the product. Regardless of any theoretical conceptions of the proper distribution of wealth the struggle will be forced at least until this class, whose wealth is now very largely hereditary, has been shaken out of its position of control.

THE DOCTRINE THAT LABOR IS A COMMODITY

By EDWIN E. WITTE,

Madison, Wisconsin.

The first sentence of section 6 of the Clayton Act states that "the labor of a human being is not a commodity or article of commerce." This declaration is regarded by labor leaders as the magna charta of the wage-earners. It has been heralded as "the dawn of labor's freedom from industrial feudalism and a state bordering upon industrial slavery."

This sentence was something of an afterthought. It was offered as an amendment on the floor of the Senate by Senator Cummins when the Clayton Act was up for passage. It was accepted without so much as a roll-call, and was thought to represent merely a perfection of the phraseology of the section.

No court has ever held that the labor of a human being is a commodity or article of commerce. In discussing his amendment Senator Cummins said:

There are a great many opinions which contain discussions of the subject and which will be found to embrace a course of reasoning which, if carried to its logical end, would put labor precisely where you put a bale of cotton or a bushel of wheat; but these reasons have never found expression in any decision. It has never been so decided. I confess that I have shared the apprehension that some students of the subject have—that the courts may do that in the future.¹

It was to guard against possible future decisions to the effect that labor is a commodity that Senator Cummins offered his amendment, not to overthrow an established legal doctrine.

On the contrary, there are many decisions which recognize the truth expressed in the Cummins amendment, that the producer is not a product, that labor and the laborer are inseparable. Even in the days of slavery, the labor of slaves was not in law a commodity.² And in construing anti-trust laws the courts have repeatedly held that a combination to increase wages or the reward for personal service is not a conspiracy in restraint of commerce.³

¹ *Congressional Record*, 63d Cong., 2nd Sess., Vol. 51, Pt. 14, pp. 14018-19.

² 19 Mo. 225.

³ 140 Ia. 182, 107 Minn. 506, 33 Mont. 179.

Organized labor's insistence upon legislation like the Clayton Act was due principally to the Danbury hatters' case.⁴ In this case, however, there was no suggestion that labor is a commodity. It was charged that the defendants had combined not to monopolize the market for hatters, but to prevent the plaintiffs from freely engaging in interstate commerce in hats. Similarly in all other cases in which the anti-trust laws were invoked in connection with labor disputes, the restraint complained of related to concrete material commodities, not to the labor of human beings.

Organized labor so loudly acclaims the Clayton Act not because of any doctrine that labor is a commodity, but because there is a doctrine that the right to do or continue business is property. Rightly or wrongly, its leaders believe that the Clayton Act, and particularly the Cummins amendment, secures all that the American Federation of Labor sought to gain by the anti-injunction bill which it long championed. This bill provided that federal courts should issue injunctions in connection with labor disputes only for the protection of property rights, and that

no right to continue the relation of employer and employe, or to assume or create such relation with any particular person or persons, or at all, or patronage or good-will in business, or buying or selling commodities of any particular kind or at any particular place, or at all,

should in such cases be regarded as a property right. Such legislation it was thought would make impossible the issuance of injunctions in labor disputes.

This expectation was not unwarranted. It is a debated question whether injunctions may be issued for purposes other than the protection of property rights, and numerous authorities can be cited both pro and con. In cases growing out of labor disputes, however, interference with property rights has always been alleged. Occasionally interference with the physical property of the complainants was claimed, usually only loss of expected profits. If such expectancies had not been regarded as property but few injunctions could have been issued in connection with labor disputes.

Such expectancies arise from the relations of manufacturers with their customers and with their employes. A firm which has established a reputation for fair dealing can reasonably count upon the continued patronage of its customers. If it has paid fair wages

⁴ 208 U. S. 274, 235 U. S. 522.

it likewise can look forward to retaining the services of most of its employes, and to securing other workmen as they are needed. These expectancies have market value; often they sell for more than the physical property. "Property is anything which has exchangeable value"⁶; hence, these expectancies are property.

In cases involving unfair competition, similar expectancies are termed "good-will"; and everybody acknowledges that good-will should be treated as property. Technically good-will can be interfered with only through duplication or simulation, which never is involved in labor cases. But when a court intervenes to prevent the duplication or simulation of a trade name, a brand, or a product, it protects precisely the same expectancy of continued patronage upon which injunctions in labor cases often are premised. What is called "good-will" in unfair competition cases, is included in "the right to do business or to continue business" so often spoken of in labor cases. But the latter right is somewhat broader. Like good-will, it relates to a fair opportunity in the commodity market; additionally, it guarantees free access to the labor market.

The doctrine that the right to do or to continue business is property does not imply that labor is a commodity. Property rights are never absolute, and this property is peculiarly qualified. The courts recognize that workmen who are not bound by contract may quit their employment at any time, both individually and collectively. Though the employer in consequence suffers loss of profits, he has no legal ground for complaint. But when some outsider maliciously interferes with the relations which he has established with his employes, or prevents him from procuring other workmen as he needs them, he can secure an injunction upon the plea that his property rights are being invaded. Similarly the expectancy of continued patronage is enforceable not against the customers with whom friendly relations have been established, but against malicious intermeddlers. The expectancies which grow out of established relations with customers and employes are property, not because such customers and employes are legally bound to continue these relations, but because they probably will do so, in the absence of unfair interference by outsiders.

As an abstract proposition the doctrine that such expectancies are property cannot be criticized. Such expectancies are a reward

⁶ 16 Wall. 33, 127.

of honorable and fair dealing. They result from the expenditure of money and effort, and should be regarded as "no less intrinsically property than if the same amount of money had been invested in a stock of merchandise or in a city lot."⁸

The application of this doctrine in concrete cases, however, is subject to many valid criticisms. Undoubtedly it often has been misapplied. Many employers and not a few judges seem to think that all that is necessary to warrant the interposition of equity is to show that there is danger that profits will be reduced. Such a view loses sight of the qualified nature of the property rights in expectancies. The courts are not guarantors of private profits. If expectancies are destroyed as a consequence of the exercise by others of their lawful rights, no wrong has been committed. It follows that employes never should be prevented from quitting work, or from peaceably persuading the workmen who are secured to take their places to join in their strike, though the employer loses all his expected profits. Nor is there anything in the doctrine that the right to do or to continue business is property which forbids workmen from collectively refusing to patronize an unfair employer. This doctrine compels no one to buy who wishes to discontinue his patronage. Nor does it compel every man to be a stranger in action to every other man. Yet this doctrine often has been held to forbid entirely peaceable efforts of workingmen to better their conditions.

The courts, moreover, almost never seem to have inquired whether the expectancies claimed by employers were legitimate. The employers who have come to the courts for injunctions often have been those who pay the lowest wages. Can such employers be said to have any reasonable expectancy of retaining the services of their underpaid employes? Yet the courts often have forbidden all efforts on the part of labor unions to compel such employers to pay the same wages as their competitors. In these cases the courts have lent their aid to the maintenance of profits at the expense of decent conditions of toil. Surely, this is giving property a concept in which it is destructive of human rights.

There is much confusion of thought as to the nature of the right to do or to continue business. Whenever an attempt is made to explain why this right is a property right, it properly is identified

⁸ 78 S. E. 482.

with the expectancies which arise through fair dealing. But the courts also say that the "right to carry on business" is property, as is the "right to work." Such expressions obscure the essential elements of investment and service. A claim of property in an expectancy should be recognized only when it has its basis in service of the public.

The courts which do not take this view, as Senator Cummins suggests, "employ a course of reasoning which, if carried to its logical end," would make labor a commodity. If the right of employers to carry on their business as they see fit is in fact an absolute property right, as some cases seem to hold,⁷ then the laborer is helpless. What is most surprising, is that the courts which entertain such extreme views try to justify their position upon the ground that it means placing labor upon an equality with property. They develop the thought that the laborer depends for his livelihood upon his labor, and that hence, it is necessary that his right to labor should be regarded as property. But it is significant that such reasoning nearly always occurs in cases in which employers seek the aid of the courts in combating the demands of their employees. The right to work is termed "property" to make the conclusion appear logical, that employers have a property right in keeping down wages. Workingmen derive little or no benefit from the doctrine that the right to do or to continue business is property, nor from its corollary that the right to labor is property. The courts will not protect workingmen from being discharged. Though they lose all the profits which they expected from their employment, they are without redress.

In business law the limitations of property rights in expectancies have been worked out more logically. Good-will, which, as has been noted, relates to much the same expectancies as the right to do or to continue business, is never treated as an abstract right, and is always looked upon as a reward for good service. A monopoly is recognized to have no good-will, precisely because the patronage it enjoys may be due solely to want of choice. Again, the qualified nature of this kind of property is emphasized in business law. When expected profits are lost as a result of fair competition, the courts never intervene. In labor cases, also, it is said that competition is a justification for interference with the ex-

⁷ Among others, 147 Ill. 66, 63 Atl. 585, 126 N. Y. Suppl. 949.

pectancies of others; but the conclusion usually is that the defendants do not compete with the plaintiffs. Workingmen who have undertaken a strike are said to have no further interest in the conditions prevailing in the factories they abandoned; and labor unions are almost always regarded as malicious intermeddlers.

Whether a legal doctrine should be retained, depends quite as much upon how it is applied as upon the conclusiveness of its logic. Though the courts give good reasons why the expectancies, to which the right to do or to continue business relates, should be treated as property, the uses to which this doctrine has been put are indefensible. The practical conclusions drawn from it have been altogether one-sided and grossly unjust. This explains the enthusiasm of organized labor for the Clayton Act. It has come to look upon statements, that business is property, and that the right to labor is property, as equivalent to making labor a commodity; and, hence, it believes that the declaration that "the labor of a human being is not a commodity or article of commerce" is its magna charta.

It is doubtful whether the courts will hold that this declaration sweeps away the doctrine that the right to do or to continue business is property. This doctrine does not rest upon the proposition that labor is a commodity. While some cases come quite close to such a theory, it is expressed nowhere. It is worthy of note, also, that during the debates in Congress upon the Clayton Act it was given a much narrower meaning than the labor leaders give to it; and President Wilson, while this measure was pending, stated that it would make no radical changes in labor law. Neither the President nor the members of Congress thought that it would prevent the use of injunctions in labor disputes, or that it would make impossible a repetition of the Danbury hatters' case.

It is to be hoped, however, that the Clayton Act will lead the courts to concede workingmen wider freedom to act collectively. This involves more adequate recognition of the qualified nature of the property rights in expectancies. The right to do or to continue business must be treated similarly to good-will in business law. Claims of expectancies must be tested as to their legitimacy; and it must be recognized that the mere loss of profits because of labor disputes is not sufficient to justify the intervention of the courts.

There is little hope for progress, so long as the courts confine

their attention strictly to precedents and legal theories. Plausible explanations can be given for every doctrine which is met with in trade union law. But both the courts and their critics usually have failed to consider the practical results of the application of these doctrines.

We have not yet heard the last of "the abuse of injunctions" and of "government by injunction." No matter how the Clayton Act may be interpreted finally, injunctions surely will still be issued in connection with labor disputes for many years to come. Similarly, there still will be numerous damage suits growing out of labor disputes. Most cases which involve trade union law come up in the state courts; and but few states have yet enacted legislation similar to the Clayton Act. The "injunction question" is certain further to perplex both the courts and the legislatures. They will find little assistance toward a proper solution of this problem in purely legal discussions. The rights at stake have been threshed out until they are threadbare. In the domain of rights almost everything depends upon the point of departure. If this is the right of workingmen to refuse to work or to purchase, the conclusion is that the losses sustained in consequence of such actions by employers and merchants are incidental. If, on the other hand, the starting-point is the right of employers and of merchants to carry on their business as they see fit, the workingmen's conduct appears as an unwarranted invasion of property rights. The chief value of such discussions is to show how inconclusive is abstract legal reasoning in this field.

The problems dealt with are economic in their nature, and should be considered from this point of view. What is needed most is information about the practical working of legal theories. Article after article has appeared relative to the doctrines which underlie the use of injunctions in labor disputes; but very little about how injunctions are secured, what they prohibit, how they are enforced, and what effect they have upon the outcome of strikes or boycotts. It is questions like these which are vital. This is a time when the law governing controversies between labor and capital is being recast. If a satisfactory law is to evolve, the emphasis must be upon the facts of the present situation, rather than upon abstract reasoning.

EVOLUTION OF LEGAL REMEDIES AS A SUBSTITUTE FOR VIOLENCE AND STRIKES

An historical argument leading up to the settlement of industrial disputes by judicial remedies, arbitrable tribunals and industrial commissions.

BY HENRY WINTHROP BALLANTINE,

Dean, College of Law, University of Illinois.

INDUSTRIAL AND INTERNATIONAL JUSTICE STILL IN A PRIMITIVE STAGE

A barbarian may be supposed to be blissfully unconscious of his own barbarity. We regard ourselves as the product of a highly civilized age, yet we take complacently, and almost as a matter of course, many relics of barbarism, notably, public war and war preparations as a method of compelling respect for international rights, and private war and strikes as a method of asserting economic rights. Only a few centuries ago, our barbarous ancestors in England and on the continent of Europe employed private war as a normal method of settling all serious individual wrongs. The slow process of substituting law in place of force and violence, which may be traced in the ancient history of Greece and Rome, and which occurred doubtless in still older civilizations, repeated itself almost independently in England, showing that some of the most ancient history may be found in comparatively modern times.

It may prove instructive to trace the gradual evolution of judicial and extra-judicial remedies in a broad and rapid manner, as showing that the only hope of permanent peace is a complete administration of justice by judicial remedies. There is a most interesting analogy here in the legal relations between the various nations and the legal relations between labor and capital. International peace can only be established by a world reorganization for international justice in courts; and industrial peace can only be firmly established by industrial tribunals for the impartial and speedy settlement of labor disputes and the furnishing of adequate remedies for industrial wrongs, individual and collective. This argument would aim to prove that our economic system will have

to provide for economic justice, or pay in violence and bloodshed for injustice.

THE BLOOD-FEUD

In the tenth and eleventh centuries, Englishmen lived mostly without law. In those lawless days, the state could furnish little protection to the individual, and on account of his personal insecurity, a man dared not separate from his kin and stand alone. The blood-feud, or vendetta, gave protection by ensuring speedy vengeance for injury. It is the state of enmity that results between the kindred or *maegth* of a man who suffers injury and that of the injurer. The family or kin ("maegth") is often called the "blood-feud group." In Tacitus, we find that every man was bound to take up the enmities as well as the friendships of his father or kinsman. But already in Tacitus, as in the Anglo-Saxon laws, we find that injuries may be appeased by compositions of cattle or money.¹

COMPOSITIONS

The system of compositions and wergelds is thus an outgrowth of the blood-feud. The kindred of the slain must demand payment of the *wer* or prosecute the feud. The *healsfang* or first installment of the wergeld was the symbol and price of the restoration of peace. In Alfred's day, it became unlawful to begin a feud till an attempt had been made to exact the established price as amends.

At the end of the Anglo-Saxon period, homicide and other offences had to be settled by compositions, if possible, except that killing was lawful and justifiable in the case of a thief caught in the act, and carrying away the stolen goods, or of an adulterer or outlaw.²

LIMITATIONS ON FEUD

When a murder had been committed, the kindred of the accused might first swear him free, if he were innocent. If they were unable to do this and unwilling to pay the wergeld, they had to bear the feud. The Anglo-Saxon feud went on until a number of "murderers or their nearest kindred, head for head" were killed equal

¹ Essays in *Anglo-Saxon Law*, p. 141; Pollock and Maitland, *English Law*, Vol. 1, p. 46.

² Pollock and Maitland, *English Law*, Vol. 1, p. 31, 47; Essays in *Anglo-Saxon Law*, p. 144; Holdsworth, *History of English Law*, p. 28, 34, 41.

in value to the "man-worth" of the murdered man. Six ceorls must die for one thegn. The feud was thus strictly limited in time and number, and did not (as is said to be the case in Kentucky) go on for years till whole families became extinct.³

GROWTH OF PUBLIC ADMINISTRATION OF JUSTICE

Slowly but steadily, the developing state wrests these rights of police and blood-feud from the hands of the *maegth*. The state gradually assumes the public functions of protection and punishment. Though self-help, private redress, is tolerated by the Anglo-Saxon kings, it is limited as far as possible. The king is everywhere engaged in enforcing composition. The blood-feud is moderated by the system of "bots" to the injured and "wite" to the king for infractions of his "peace." Private vengeance is restrained until public tribunals have passed judgment, and then if composition is refused, the kinsmen are the executioners. Finally the system of private vengeance and reprisals, which the Saxon kings were forced to tolerate, succumbs to the firm hand of the Norman rulers. The king's peace covers all; the public administration of justice supplants self-help and recourse to courts supersedes the recourse to physical force, which is the instinctive method of redressing wrongs.⁴

SURVIVALS OF SELF-HELP

In many cases, we recognize that it is legitimate to exert leverage and extort justice by withholding that which chance, strength, foresight or strategy has put in our possession. If a man owes you money, and funds of his come into your hands, you will probably retain what he owes you rather than trust him to voluntarily pay you what is due. Liens, or the right of detaining property of the debtor already in the hands of the creditor for services rendered thereon, are favored by the law. If you do not have funds of his already can you seize his money or cattle for yourself and keep them until he is compelled to do justice? Distress, or this power of seizing a man's property extra-judicially in satisfaction of a demand, occupied a prominent place in early remedial law and is very ancient among all peoples. But for a man to be judge and executive officer in his own behalf is not to be endured. Distress

³ Essays in Anglo-Saxon Law, p. 145, 147.

⁴ Pollock and Maitland, *English Law*, p. 45; Howard's *King's Peace*, p. 7.

is soon overloaded with formalities and confined to a few claims of great urgency. Until recently, however, a landlord, without suit or adjudication, could enter his tenant's premises, seize his belongings, and hold and sell them for the rent, but this harsh and oppressive remedy has practically become extirpated or transformed into the judicial process of attachment or execution. The extra-judicial has developed into the judicial distress. A court must authorize the taking and send an officer to do it.

Self-defense, the defense of possession, the recaption of chattels, reëntury on land in the adverse possession of another, the abatement of nuisances, are the principal examples of extra-judicial remedies still permitted by the law under certain conditions, if employed without breach of the peace or unnecessary violence. A man may not kill or wound, however, merely in defense of his property.

STRIKES, LOCKOUTS AND BOYCOTTS

Labor and capital are still largely left to settle their controversies by primitive methods of self-help, such as strikes, boycotts and lockouts, under certain limitations imposed by law as in other extra-judicial remedies. Just what these limitations shall be, is a matter of bitter dispute and litigation. These remedies are difficult to control and go largely on the basis of brute force instead of reason. They are still the ultimate appeal, in spite of their disastrous consequences to the public and to all concerned. Working men have been largely left to extort such economic justice as they could by withholding their labor, using this negative weapon against the weapon of starvation and lockout in the hands of the employer.

SMALL LEGAL RECOGNITION OF ECONOMIC RIGHTS

Labor has been aided to some extent in recent years by legislation as to employer's liability and as to hours and conditions of labor, but the enforcement of such laws has been very inadequate. It is only in legislation, in the public regulations of the statute book, not in the common law, that the economic and social responsibility of capitalists and employers finds expression. The courts, in formulating common law, have not recognized the sphere of economic rights. They have not undertaken the duty of asserting social and collective interests or building up a just social or

economic system. The rights of property, as worked out by common law, are thus individualistic, not social or communal. The complex mechanism of capital and labor is the result of the play of unregulated individualism and self-help in the acquisition of private property. In New Zealand, Australia, Canada and in some of the European countries, some progress is being made in arbitration and industrial courts have been established which attempt to reconcile the conflicting interests of capital and labor on a basis of economic justice.

SELF-PRESERVATION

Where a working man is oppressed, when his legal and economic rights are denied and trampled under foot, he is placed face to face with the practical question "What to do?" Through cowardice, ignorance, or weakness, shall he endure the wrong? Shall he let his rights go trampled under foot by the employer unpunished? Or shall he struggle and obtain better living conditions for himself, and his family, as best he may? The preservation of existence is the deepest instinct of every creature, and to tolerate injustice, as Von Ihering points out in his *Struggle for Law*, is ultimately to forfeit existence. In the beginning, bloodshed and violence were necessary to redress wrongs, and the only security for person, property, or family, was to let other men know that they could not invade any of these rights without attack. Violence seems still the ultimate remedy of working men so long as we have gross inequalities before the law.

PRIMARY DUTY OF GOVERNMENT

The state cannot expect individuals to refrain from the natural and instinctive exercise of private force for self-preservation and the redress of injuries, unless it supplies means to maintain their just rights and also of bringing wrongdoers to punishment. Unless the administration of justice insures a reasonable degree of popular satisfaction and acquiescence, the private justice of mob lynchings, family feuds, the custom of carrying knives and revolvers, violent strikes, syndicalism and sabotage and other manifestations of violence will ensue, which threaten the entire social system. Mankind universally approve of violence which is used to avenge and beat off injustice, if there be no other remedy. Without public justice, superior in power to all offenders, there can be no peace, safety,

sense of security, or mutual intercourse. To establish justice, to secure individuals and society in the enjoyment of their rights, is, next to external defense, the great duty of governments and the principal reason why they are instituted among men.

GROWTH OF ADMINISTRATION OF JUSTICE

The progress of society to a complete administration of justice has been slow and gradual, and it must probably continue to be so in the economic field. The principal stages in the establishment of judicial tribunals as a substitute for violence, self-help and private vengeance, seem to be, first, the furnishing of opportunity for voluntary acceptance and choice of peaceable arbitration, as in international relations, and later, the making of submission of disputes to arbitration more and more compulsory. Naturally, the earliest wrongs to call for remedy, were the so-called trespasses, such as assault and battery, false imprisonment, and the seizing and carrying away of goods from another's possession. Later, remedies are extended for less tangible wrongs, such as defamation, slander and libel, and the non-performance of contracts. It comes to be recognized that it is the king's duty and function to provide some sort of remedy in his courts for every substantial wrong or grievance.

UBI JUS, IBI REMEDIUM

The most vital principle in the growth of law is that represented by the maxim *Ubi jus, ibi remedium*. That is, that a remedy must be given for the violation of every right, or, in other words, that every injury must have redress. As Chief Justice Holt said in the famous case of *Ashby against White*⁵ where an election officer was sued for his refusal to permit a voter to vote, "It were a vain thing to imagine that there should be a right without a remedy, for want of right and want of remedy are convertibles." As was said by Chief Justice Marshall, in the great case of *Marbury against Madison*, 1 Cranch, 163, "The very essence of civil liberty consists in the right of every individual to claim the protection of the laws, whenever he receives an injury. One of the first duties of government is to afford that protection."

⁵ Lord Raymond 938, 1 Smith Leading Cases, 342, 1 English Ruling Cases, 521.

A NEW PROVINCE FOR LAW

These labor controversies involve the interest of all the people in addition to the interest of the opposed forces of employes and employers. Has not the time now come for the recognition of a new province for law and a new set of remedies, and the substitution of the peaceful methods of arbitrations and commissions in place of the violent redress of economic injuries? It is no doubt true that strikes cannot be entirely done away, and that a large measure of self-help must still be recognized in connection with industrial bargaining. But legal remedies must also be provided, at first largely of an optional nature.

Under such a system, it may be justly demanded (by public opinion) that employers and employes alike shall submit their wrongs and complaints to public tribunals and abide by their decrees. The intervention of an impartial tribunal will require the rational investigation and patient inquiry into the facts of the case. It will afford opportunity for thorough argumentation and calm weighing of the principles of right and justice to be applied. It represents the civilized appeal to reason, instead of the barbarous recourse to arms.⁶

The public now stands aside and lets the parties to an industrial dispute fight it out according to the rules of the game. The state has neglected its duty to provide other means than strikes and self-help for settling these disputes. As Blackstone says in his Commentaries:⁷

A third subordinate right of every Englishman is that of applying to the courts of justice for redress of injuries. Since the law is in England the supreme arbiter of every man's life, liberty and property, courts of justice must at all times be open to the subject, and the law be duly administered therein. The emphatical words of *magna charta*, spoken in the person of the king, who in judgment of law (says Sir Edward Coke), is ever present and repeating them in all his courts, are these: *nulli vendemus, nulli negabimus, aut differemus rectum vel justitiam* (to none will we sell, to none deny, to none delay either right or justice): "and therefore every subject," continues the same learned author, "for injury done to him *in bonis, in terris, vel persona* (either in his goods, lands, or person), by any other subject, be he ecclesiastical or temporal, without any exception, may take his remedy by the course of the law, and have justice and right for

⁶H. B. Higgins, "A New Province for Law and Order," 29 *Harvard Law Review*, 13.

⁷Book 1, p. 141.

the injury done to him, freely without sale, fully without any denial, and speedily without delay."

In nearly all the states, the constitution declares that every person ought to have a certain remedy at law for all injuries to the person, property, or character; and to obtain justice freely without being obliged to purchase it, completely and without denial, promptly and without delay.⁸

The right to strike is, under our present industrial system, a necessary safeguard and remedy. It is as vain to hope for the total elimination of strikes or lockouts, as for the total elimination of the necessity of self-defense and other forms of self-help. But this hostile, dangerous and wasteful method of enforcing demands ought to be used only as a last resort. If so, some earlier resort must be provided. Society is under an obligation to provide some alternative to this trial by battle, and to make some remedies available for the civilized appeal to reason, instead of the primitive recourse to arms. The aim should not be to prevent strikes at all hazards, but to supply some prompt, competent and impartial tribunal whose decision will ordinarily make them unnecessary, and which will make the public a party to the collective bargaining process.

As Blackstone points out,⁹ "Judicial and extra-judicial remedies are always concurrent where the law allows an extra judicial remedy."

Therefore, though I may defend myself or my relations from external violence, I am yet afterwards entitled to an action of assault and battery; though I may retake my goods, if I have a fair and possible opportunity, this power of recaption does not debar me from my action of trover and detinue. I may either enter on the lands on which I have a right to enter, or may demand possession by real action; I may either abate a nuisance by my own authority, or call upon the law to do it for me; I may detain for rent, or have an action of debt at my own option.

The extra-judicial remedy is exceptional. The judicial remedy must be granted wherever a right is invaded.

It is not suggested that there should be an exact likeness between our law courts and commissions or boards for industrial matters. It is true that some industrial and economic rights are capable of definition and judicial enforcement, as, for example, workmen's compensation. One measure imperatively demanded is genuine enforcement of the laws which we now have and the effective recognition of all rights, legal and constitutional.

⁸ Stimson, *Federal and State Statutes*, Section 70.

⁹ Book 3, p. 21.

But many of the most serious questions which arise relate to continuing future relations between more or less indefinite parties and under various and changing conditions. Mediation and conciliation leading to a just agreement between the parties would seem to be ordinarily the principal remedy, as pointed out by Professor James H. Brewster in an article in a recent number of the *Michigan Law Review*, entitled, "The Comparison of Some Methods of Conciliation and Arbitration of Industrial Disputes."¹⁰

As Professor Brewster points out, under the so-called Erdman-Newman act, mediation and conciliation have proved more advantageous and have been more often resorted to than arbitration. This is not a compulsory arbitration law. So under the Canadian Industrial Disputes Investigation Act, the first object is conciliation, and when arbitration is brought about, public opinion is the sole compelling force. Under the Canadian Act, investigation with a view to amicable settlement of the dispute is the duty of the board. In fact, this investigation is compulsory, and while it is pending there is no suspension of the work. Investigation precedes the strikes or lockouts, instead of following it. Publicity follows investigation, and then, as a last resort, the parties may exercise their rights of strike, lockout, etc. This procedure affords an opportunity of justly determining disputes by reason, rather than by force alone. The chief purpose is to provide means of investigation, discussion, conciliation and publicity and the settlements are in the form of agreements.

Compulsory arbitration, at the present time, seems impracticable and undesirable. Recent amendments of the Compulsory Arbitration Law of New Zealand emphasize its conciliatory and voluntary features. At the present time, our employers frequently refuse even to negotiate with the workers and claim an absolute right to run their business in their own way, and with reference only to their own interests. Where the parties refuse either to bargain or to arbitrate, compulsory official investigation at the instance of one of the parties or of a public official, when public interest demands it, will afford opportunity for getting at the truth and for placing the influence of the public on the side of justice.

In this new system of courts or commissions, the object of the trials will be administrative inquiry and ascertainment of the truth,

¹⁰ *Michigan Law Review*, Vol. 13, p. 185.

New lands

rather than the mere preserving of the peace, by furnishing a modern form of trial by combat, conducted by highly paid legal champions. The remedy of the workers for their grievances will no longer lie exclusively in strikes, attended almost inevitably by force and violence, and the law will no longer content itself with attempting to confine labor and capital to "peaceable hostilities" in the fixing of wages, hours and working conditions on railroads and in other industries on which the public is dependent.

THE ADVANTAGES AND DEFECTS OF COMPULSORY ARBITRATION

BY FRANK T. CARLTON,
Albion College, Albion, Michigan.

In the discussion of a vital and important economic problem such as the one now under consideration, in order that the essential matters may be clearly set forth and that the reader may understand exactly what the writer is driving at, it is unfortunately necessary to give careful attention to the meaning of certain terms used. At the outset, consequently, the words "advantages and defects" need consideration. These two familiar terms are capable of rather exact and satisfactory definition when applied to an engineering policy or to a method used by the stock breeder or the market gardener. But when the advantages or defects of a given economic or political policy are considered, new difficulties arise and unusual complications appear. What standard or yardstick can be used for the purpose of measuring advantage or defect? Theoretically, any economic or political program should be deemed advantageous or desirable when it promotes the welfare of society. But the man possessed of a knowledge of practical affairs and of different types and classes of people immediately makes a further and pertinent inquiry. From what angle of vision is the welfare of society to be looked upon? Even the casual observer of industrial and labor problems must admit that what seems advantageous to an employer or a large stockholder in a big corporation often is urged as a defect by the employes of that company; and that which appears desirable to an outsider may be bitterly opposed by those on the inside.

Therefore, in any discussion of the advantages and defects of a policy affecting the relations of labor and capital, it is quite essential that a preliminary statement be offered disclosing the point of view of the writer. In this consideration of arbitration, the following fundamental points are subscribed to: 1. It is desirable that American wage-earners be organized into unions, and that these labor organizations be recognized and bargained with by the employers.

Our government should no longer assume the attitude of indifferent neutrality. The right of wage workers to organize without interference on the part of employers should be given definite legal recognition. 2. A rising standard of living for American workingmen is favored. 3. Peace in industry is held to be highly desirable unless obtained at the expense of the self-respect and the standard of living of the wage-earners. Conclusions in regard to arbitration will doubtless be reached which cannot be acquiesced in by those who do not accept all or any one of these fundamental premises; and the reasoning used will certainly be condemned unless viewed in the light of these basic principles.

Arbitration is an orderly form of procedure for the settlement of industrial disputes as to wages, hours of labor and other working conditions. As a consequence of its use, resort to such weapons as strikes, boycotts, lockouts or blacklists, is obviated. The court or board of arbitration should be composed wholly of persons who do not represent either the employers or the employees; or, if representatives of the two opposing interests are given places on the board, the balance of power must be held by others. In short, the decisions of a board of arbitration are actually made by persons supposed to be neutral in their sympathies and interests. Boards in which the balance of power does not rest with the neutrals or the representatives of the general public should not be designated as boards of arbitration.

In regard to the subject matter considered, arbitration is of two general types: primary and secondary. The second form deals with disputes arising from the interpretation of the terms of a contract already entered into. Primary arbitration, on the other hand, is concerned with the determination of the conditions of employment,—wages, hours of labor, etc. Again, arbitration may be voluntary or compulsory. If voluntary, the two parties agree to accept the findings of the board. If compulsory, the law provides for the reference of industrial disputes to the board, and provides penalties if the findings of the board are disregarded or if a strike or lockout takes place. Arbitration practically implies the recognition of some form of labor organization. This discussion will be limited to a consideration of compulsory primary arbitration.

The advantages of the policy of settling industrial disputes by means of arbitration are easily presented. Arbitration, successfully

employed, means peace in industry instead of war. It prevents strikes, lockouts and boycotts; and business activities may go forward without danger of periodic interruption. The great losses from such interruptions are not incurred; and the friction between employers and employees incident to strikes, boycotts or even the more orderly processes of collective bargaining, is eliminated. A judicial or quasi-judicial determination of controverted points is substituted for the cruder and more direct appeal to the strength of organized labor on the one hand and of organized capital on the other. It may, with a reasonable degree of fitness, be compared with the substitution of court procedure for the feud and the duel.

The defects of the policy of arbitration are more difficult of presentation. More subtle considerations are involved and the clashing of divergent interests and points of view come much more clearly into the foreground.

1. The most serious defect in a system of compulsory arbitration grows out of the absence of any definite and generally accepted standard for the determination of a wage rate. No theory of wages, now formulated, has satisfactorily stood the test of criticism and of practical application in the industrial world; and no board of arbitration has been able to present a scientific standard by means of which disputes as to wage rates may be authoritatively and accurately settled. Consequently, boards of arbitration have as a rule compromised in fixing wage scales. When more than a mere compromise between opposing demands has been attempted, arbitrators have been influenced by a knowledge of what has been paid in the past in the industry under investigation, or what is now being paid in other shops and localities; or they have rested their decision upon the basis of the standard of living by them considered adequate for the wage workers concerned. The first alternative spells fixity, and will be further discussed under the head of the fourth defect.

The second method cannot be considered scientific so long as no definite concept of the standard of living exists. In fixing railway rates the Interstate Commerce Commission has certain fairly definite items as points of departure, such as the actual investment, the depreciation, market rates of interest, the cost of operation. In the determination of a wage award, the standard of living is such an indefinite concept that difficulties arise which prevent any scien-

tific award. Some of the problems are: What is the standard of living? Should it gradually rise as the years go by? Should an allowance be made for the physical deterioration of the worker? Should an allowance be made for insurance against old age, sickness and accident?

A recent dictum of the Ohio Industrial Commission throws an interesting sidelight upon the fundamental problems of a board of arbitration. "Exact industrial justice would not take into consideration the demands of the employes or the proposals of employers, but would be determined after a full investigation and inquiry into the cost of production, cost of maintaining a satisfactory standard of living, distribution of profits, and all other such matters." A brief study of this plan will disclose numerous practical difficulties. What is a "satisfactory standard of living"? To whom is it satisfactory? Does cost of production include a fair profit? And, what is a "fair profit"? From whose point of view is it fair? What would be the proper "distribution of profits"? And, what of "all other such matters"? Since almost all industrial disputes directly or indirectly touch the question of wages, obviously, the first and foremost defect of arbitration offers almost unsurmountable obstacles in the present state of the science of economics. It will certainly be difficult to apply the much-discussed "rule of reason."

2. The substitution of arbitration for the strike, boycott or the trade agreement in the settlement of industrial disputes will tend to weaken organized labor or at least greatly to modify the form and programs of such organizations. The reason for this consequence is not difficult of discernment. Labor organizations have been formed to obtain by means of collective bargaining or militant activities, higher wages, a shorter working day or some other improvement in working conditions. Unionists are loyal to the union and cheerfully pay dues only when they believe that the organization is a potent instrumentality to assist them in obtaining their demands. If arbitration becomes the accepted method of determining the wage rate, the necessity for the union becomes less clear to the average unionist. The resort to arbitration will not stimulate self-reliance and self-assertion among the workers. Of course, from certain points of view this seems an advantage rather than a defect. In a personal letter, the editor of a well-known labor journal questions whether arbitration "has been of much practical value in giving

the workers those opportunities for self-assertion" which are "necessary for their welfare if they are to take an active part in the determination of what their terms of employment and conditions of labor will be."

3. Arbitration involves the intervention of a third party. The members of a board of arbitration who are supposed to be neutral and to represent the public, as a rule, are not familiar with the conditions in the industry. This fact adds to the difficulties in formulating a scientific judgment which will stand the test of rigorous criticism; and it does not inspire either side with confidence in boards of arbitration. Wage workers naturally hesitate to place the determination of matters which vitally touch their chief business in life in the hands of outsiders more or less ignorant of conditions in the industry and also of their point of view.

4. The procedure of a board of arbitration resembles that of a court; it is judicial in its methods. Therefore, precedent plays a large part in the deliberation of a board of arbitration. Since labor is struggling upward toward a higher standard of living and toward higher social standards, labor organizations look with suspicion upon any institution or method of procedure in which precedent plays a considerable rôle. Precedent for wage workers spells slavery, serfdom or low standards of living and social inferiority. Laboring men and women are struggling to get out of the "servant" class. They want to be recognized as "equals" of their employers and the managers of the business in which they are earning a living. Wage workers are eagerly looking forward to the day when labor as well as capital shall have a voice in determining the conditions in industry, to the time when the representatives of the employees shall be admitted to the meetings of the boards of directors. Compulsory arbitration would seem to offer little opportunity to press forward along this line.

Again, in case no definite legal principles can be invoked, the decisions of the board depend in no small measure upon the training, interests and idiosyncracies of the judge or umpire. It has been noted that no fundamental principles which are of general acceptance can be laid down for the guidance of boards of arbitration. Consequently, there is reason for the assertion made by labor leaders that the decisions of boards of arbitration depend upon the personal bias and the preconceived notions of the arbitrators. In the event of the

adoption of compulsory arbitration in this country, the choice of arbitrators or of those officials whose duty it would be to make such selection, would inevitably become a political issue. And, further, political considerations would become determining factors in the rigid or the flabby enforcement of the law.

5. The decisions of a board of arbitration, particularly when adverse to the workers, are difficult of enforcement. It might involve the necessity of penalizing large numbers of citizens.

6. Except in a few basic or quasi-public industries, a law providing for compulsory arbitration would probably be held unconstitutional.

An incidental weakness or defect of arbitration is due to the lack of a consistent policy for or against it on the part of both employers and wage workers. Neither employers nor employees at all times and under all circumstances take the same attitude toward arbitration. In some cases, unionists demand arbitration; again, they reject such proposals. Likewise, employers sometimes favor arbitration; and, again, they contemptuously reject it. Employers usually stand for arbitration in industries when the unions are strong as in the railway industry. But in other industries where organized labor is weak or has been eliminated, the employers insist upon their right to run their business without interference.

The United States Steel Corporation has not attracted much attention as an advocate of voluntary or compulsory arbitration in its own plants; and the copper companies of northern Michigan are not well-known friends of these measures. Less than half a decade ago, the president of a New York City street railway company sternly informed the employees of the company that they were his servants and that he expected them to do his bidding. "Arbitration between my servants and me is impossible." How different was the attitude of the steam railway presidents in 1916! On the other hand, the anthracite coal miners in 1902 were quite willing to arbitrate their differences with the operators; but, in 1916, the railway brotherhoods rejected arbitration. The progress of compulsory arbitration in Australasia in recent years is partially due to "the demand of employers for protection against more powerful unions."¹ But the first law passed in New Zealand in 1894, was favored by the union men of the island and opposed by the employers.

¹Commons and Andrews, *Principles of Labor Legislation*, p. 143.

No scheme for the adjustment of industrial disputes is without defects; but, in the opinion of the writer, the defects of compulsory arbitration outweigh its advantages. Nevertheless, in view of the rapid growth in numbers and importance of industries affected with unmistakable public interest, it seems quite probable that unless employers and organized labor can settle their differences by collective bargaining and trade agreements or in some other manner not requiring resort to industrial warfare and chaos, compulsory arbitration with its defects and its advantages or a system similar to that being tried in Canada, will be adopted as the legal remedy. In case of a great strike tying up, for example, a large railway system or the coal industry the demand for industrial peace will become so insistent that some legislative remedy or palliative will be enacted.

If this diagnosis of the situation be fairly accurate, the following conclusions may be offered. Associations of employers and unions of wage workers must face the welcome or unwelcome indications that if they cannot compromise their differences by collective bargaining and thus avoid industrial warfare, legal coercion will be used to adjust the matter according to the findings of boards in which the balance of power is held by men from the outside appointed by public officials. The law court system of adjusting personal and group disputes and quarrels is by no means perfect; but very few individuals favor a return to the medieval system of settlement by personal combat and feudal warfare. If organizations of wage workers and of employers cannot bring about industrial peace, they must suffer the consequences whatever such consequences may be. It is, however, by no means certain that compulsory arbitration will achieve industrial peace. It has not in New Zealand or in New South Wales. Because of the political weakness of organized labor in the United States, the drafting and the enforcement of compulsory arbitration laws will doubtless, as a rule, be under the control of persons not recognized as friends of organized labor. Under such circumstances it may not be anticipated that this legislation will be very distasteful to the business interests of the nation.

CANADIAN LEGISLATION CONCERNING INDUSTRIAL DISPUTES

WITH SPECIAL REFERENCE TO THE DISPUTES INVESTIGATION ACT

BY F. A. ACLAND,

Deputy Minister of Labor, Ottawa, Canada

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Two statutes present themselves for consideration: (1) the *Conciliation and Labour Act*; and (2) the *Industrial Disputes Investigation Act, 1907*. The *Conciliation and Labour Act* contains the earliest Dominion legislation concerning industrial disputes. This statute, in its present form, is a consolidation dating from 1906 of two earlier laws, the *Conciliation Act* and the *Railway Disputes Act*.

The *Conciliation Act* was passed in 1900. It provided for the appointment of a Minister and Department of Labour with certain prescribed functions, and for the institution under the supervision of the minister of a system of conciliation boards for the adjustment of industrial disputes. The statute, in so far as it related to conciliation boards and industrial disputes, proceeded generally on the lines of an English act. It will be interesting to glance at the conditions in Great Britain producing the law which the Canadian act follows.

Conciliation committees or boards have, for more than half a century, existed in mining and manufacturing districts of Great Britain, springing up quite naturally and unofficially for the adjustment of the disputes necessarily growing out of an intense industrialism. Selected persons represented the varied interests of a particular industry in a given district,—of textile working or coal mining, for instance, in Lancashire or Yorkshire. The boards assumed in time and in some cases a certain permanence of character, while the chairmanship acquired almost a semi-judicial aspect. When difficulty occurred in filling a chairmanship by agreement the disputing parties fell into the habit of requesting an appointment by the government. The duty of making such appointments was vested in the Board of Trade, and gradually there was created a situation whereby the Board of Trade found itself in touch with

a group of expert adjusters whose success in the work entrusted to them depended on their skill, tact and known integrity rather than on any legal or formal authority. The element of legal compulsion was not a factor in the settlement of industrial disputes which came before these conciliation boards.

The machinery of the boards was developed and improved as the years passed. The English Conciliation Act of 1896 confirmed and encouraged the system which had grown up. The work of the conciliation boards aided in the settlement of many trade disputes, and strikes or lockouts were prevented in these cases, but industrial unrest kept pace, perhaps more than kept pace, with industrial development. Some trades did not avail themselves of the methods of conciliation boards and there was in such cases little to hinder the rapid aggravation of small disputes into strikes or lockouts. In some cases also where the boards existed their best efforts were futile and the disputants resorted to the methods of the industrial battlefield. Disastrous and even terrible industrial conflicts recurred from time to time. The necessity of conciliation machinery increased as the question of industrial relations pressed more and more to the front.

Calls on the British Board of Trade for expert adjusters, assessors, etc., in industrial disputes which the disputants could not settle directly, became more frequent, and in 1908 the machinery relating to conciliation boards was further developed for the constitution of a Court of Arbitration. For the purpose of this Court three panels were formed: a chairman's panel, an employers' panel, and a labour panel. By virtue of this new agency, on the application of the parties to an industrial dispute, a Court of Arbitration consisting of three or five members is nominated by the Board of Trade from these panels, the powers of the Court corresponding generally with those which a Conciliation Board had possessed.

Yet a further expansion in Great Britain of the conciliation system was the establishment in 1911 of what was termed an Industrial Council, composed of representatives of employers and employees, with a Chief Industrial Commissioner; the Industrial Council was established "for the purpose of considering and of enquiring into matters referred to them affecting trade disputes," etc. Sir George Askwith, K.C., who became chairman of the council, had been long a leading figure in the group of expert adjusters from

which the Board of Trade had been, on the request of the disputing parties, selecting chairmen of conciliation boards.

It is of interest to note in passing that Sir George Askwith visited Canada in 1912 for the purpose of investigating the nature and operations of the *Industrial Disputes Investigation Act, 1907*, the Dominion statute which was now effective in these matters and the enactment of which by Great Britain was being urged in some quarters as a possible remedy for the disastrous industrial conflicts which then were distracting that country. Apart, however, from certain special legislation limited to the coal mining industry, and consequent on the national coal mining strike of 1912, no further legislation as to industrial disputes was enacted in Great Britain until the outbreak of the war, when a measure was passed not far removed in its general intent from that of the Dominion statute on which Sir George Askwith reported.

Before leaving this aspect of the subject, it may be added that at the close of 1914, 300 conciliation boards or courts were in existence in Great Britain; the same figure had obtained at the end of 1913. British official reports show that, despite the efforts and influence of these numerous conciliation agencies, there were 1,497 strikes or lockouts in Great Britain during 1913, with time losses of nearly twelve million working days; for the corresponding year in Canada the number of strikes was 113, with time losses of 1,287,678 days.

Let us return now to the Conciliation Act enacted by Canada in 1900. The statute was obviously designed to promote in Canada the establishment of conciliation boards on the lines of those found in Great Britain. The measure was destined to remain inoperative in so far as it concerned conciliation boards; no tribunals of this nature were established under its provisions. The act was not, however, fruitless in its bearing on industrial disputes. Officials of the newly established Department of Labour were required to follow closely the course of industrial disputes, not only for statistical purposes, but from the point of view of public welfare. Offers of mediation were made in serious disputes. The offers were frequently declined and intervention was possible only by consent of both disputants. Where mediation was accepted the department seems to have acquitted itself creditably and the Deputy Minister of Labour of that time (Mr. W. L. Mackenzie King) established some

reputation in the adjustment of industrial disputes. Dominion officials had not previously made efforts in this direction. The work thus accomplished was of some value, but the facilities of the department were not large and no headway was, as we have seen, made in the development of the conciliation board system whereby local effort and influence might be sometimes effectively utilized for the solution of a particular difficulty.

In 1903 was enacted the *Railway Disputes Act*, a measure applying, as its name suggests, to disputes in industries affecting the railway service. The new statute invested the Minister with a limited power of compulsion with respect to the establishment of conciliation boards. Where a dispute existed between a railway company and its employees, and either party to the dispute (or a municipality concerned therein) asked that the dispute might be referred to a board for adjustment, the act permitted the establishment of a board without requiring the consent of the other disputant. If, however, the establishment of a board was not requested, no board could be established, and in any event the statute placed no restraint on the right to strike or lockout. This measure remained, on the whole, inactive, only one dispute being referred for adjustment under its provisions down to 1907, when it was practically displaced by new legislation. It is not impossible that the existence of the statute may have exerted sometimes on the parties to a dispute a silent pressure towards an amicable arrangement by direct negotiation, but on this point there is no record.

In 1906 the two measures mentioned were consolidated for the revised statutes of Canada and became known as the *Conciliation and Labour Act*.

The year 1907 saw the enactment of the *Industrial Disputes Investigation Act*, the scope of which is aptly indicated by its complete title, "An Act to aid in the prevention and settlement of strikes and lockouts in mines and industries connected with public utilities." The new statute contains the first limitation placed by the Dominion Parliament on the right to engage in strikes or lockouts, the limitation being confined to stated classes of labour. The process of dealing with a dispute entails its reference for attempted adjustment to a Board of Conciliation and Investigation formed on the lines of the ordinary board of arbitration, with a nominee from each of the disputants and a third member, the chairman, selected

if possible by joint agreement; failing a joint agreement as to the chairmanship, the chairman is named by the Minister of Labour. A strike or lockout in the industries indicated is unlawful, under penalty, until the dispute in question has gone before the board. The provisions of the Act have been recently extended to what may be broadly designated as war industries in all their branches, so that a lockout or strike in such industries prior to procedure under the statute becomes unlawful.

It will be useful, before discussing the Dominion Act further, to look broadly at the conditions elsewhere as to legislation on this subject. The situation in the United Kingdom has been already outlined. In the United States, as in the case of Great Britain, the new Canadian law was made the subject of official inquiry. Dr. V. S. Clark, a skilled investigator, visited Canada in 1908 and again in 1909, with a view to ascertaining the adaptability of the statute to the requirements and conditions of the United States. Dr. Clark's reports are valuable treatises on the statute and its aims and achievements, as at the time of enquiry. Similar enquiries into the Canadian Act have been made by various states of the union. The United States proceeded, however, on other lines, its efforts culminating in what is known as the *Newlands Act* of 1914, which created a Board of Mediation and Conciliation, designed, like the British Industrial Council, for the purpose of promoting industrial peace and not unlike the British Industrial Council in its general method of operation; the jurisdiction of the United States Board of Mediation is, however, severely limited, extending only to disputes involving employees of interstate railways. Like the British statute, the measure is permissive, not compulsory. The legislation of the states of the union, when it touches the subject of industrial disputes, has not gone beyond efforts at conciliation and the provision in some cases of carefully devised machinery for that purpose.

A concise statement as to the situation in continental Europe in these matters appears in a special report on legislation respecting industrial disputes issued a year or two ago by the Labour Department of the British Board of Trade:

Amongst the foreign countries covered by this return, says the report, it will be observed that in Europe there are nine, the statute books of which comprise legislation specially designed to avert strikes on the part of those employed in public utility services. While varying widely in range and stringency, these laws possess one characteristic in common: the workpeople to whom they relate are in

every case placed on a footing different from that of the general body of industrial workers in respect to the right to engage in strikes, this right being either explicitly withheld or else subjected to specific limitations in its exercise.

Of the nine countries referred to, five have enacted laws absolutely prohibiting workpeople employed in certain public utility services from engaging in strikes. These countries are Russia, Roumania, Holland, Belgium and Italy. In Russia and Roumania, the law covers the whole field of what may be termed public utility services, whether governmental or local. In Belgium, it applies to all persons in the service of the state, including the railways, post office, telegraphs and telephones; in Italy, it applies to all persons in the service either of the state or of a railway company, while in Holland, only those employed on main lines of the railway service are included. Three countries, viz., Spain, Portugal and the Ottoman Empire, have enacted laws applicable to all public utility services, and declaring concerted stoppages of work illegal, unless certain conditions have previously been fulfilled. In Spain, the conditions are that notice of the strike or lockout shall have been given to the authorities, either eight days or five days beforehand, according to the nature of the undertaking, and that such notice be accompanied by a statement of the cause of the strike or lockout. The Portuguese law insists on twelve or eight days' notice being given of the strike or lockout, according to the nature of the undertaking, and requires that such notice be accompanied by a statement of the causes or objects of the strike or lockout. Under the same law, all "officials, public servants, or those receiving salaries from the state" incur the penalty of dismissal, if they combine to suspend work.

The last of the nine European countries that call for mention in this connection is France, where the only persons employed in public services who incur legal penalties for participating in strikes are the engine-drivers, guards and brakemen actually in charge of trains, and the outdoor staff of the postal service.

While attempt to avert strikes and lockouts in public utility services by means of special laws withholding or limiting the exercise of the right to strike are confined to the nine countries just enumerated, there are two countries—Germany and Austria—where, so far as the railway, postal and allied services are concerned, the exercise of such a right on the part of the staff is rendered impossible in practice by the policy pursued by the authorities towards any manifestations of trade union activity among members of these services—a policy based on the assumption that membership of a militant trade union is incompatible with loyalty to the department and with the safety of the state.

The British report contains a further paragraph showing that permanent courts of arbitration "equally representative of the interests of employers and of workpeople," especially for the promotion of industrial peace, exist in Denmark and in the Swiss Canton of Geneva.

There remain the British Dominions. Apart from the Dominion laws now under consideration there is little to be said of Canada. In Ontario and Quebec there are laws providing machinery for conciliation purposes: the machinery is but little used.

A more interesting statute is that of Nova Scotia, dating from 1890 (amended 1900), which, applying to the coal mining industry only, forbids a strike or lockout where one of the disputants calls for a reference of the dispute to arbitration in the manner provided; where there is no request for arbitration there is no restraint on strike or lockout.

South Africa needs but a word. In 1909 the Transvaal enacted a law adapted from the Canadian statute of 1907, and this measure is understood to have remained effective under the South African Union.

In Australia and New Zealand the situation is more intricate. For twenty years the various Australasian States have shown extraordinary activity in legislation concerning industrial disputes. The writer of an Australian letter contributed so long ago as April 14, 1909, to the *Otago Witness*, one of the leading journals of New Zealand, remarks: "The Commonwealth and States will in a few years be overlain with a web of industrial legislation and judicial decisions which will tax the brain of the future European should he endeavour to unravel it." The period subsequent to the date of this comment has not been less fruitful than earlier years in industrial legislation in Australia, and with this warning before us it will be perhaps wise to abstain from too close an inquiry into the subject. The independent and original character of much of this legislation is perhaps reflected in the view which finds expression in a report issued in July last by the Government of Victoria on "Anti-Strike Legislation":

The laws in parts of the world outside Australia, excepting perhaps Canada and South Africa, are of little use as a guide, from the fact that conditions from military and other points of view are so different. It is interesting to note that no two laws in Australia, nor, indeed (so far as I can find), in the world, have quite the same provisions against strikes and lockouts. This may be accounted for in part by the different conditions, but it also suggests that anti-strike law has not yet evolved; that it is in its elementary stage; and that each country, as it set about choosing its method, turned down every system already in existence and proceeded to set up a new one of its own.

At another point in his report the writer credits the Canadian Act of 1907 with having inspired not only the Transvaal Act of 1909, as mentioned above, but also the Queensland Act of 1912 and the New Zealand Act of 1913, which, in what are perhaps their chief features, approximate to the Dominion measure.

Of the abundant industrial legislation of Australasia it may be said generally that while numerous statutes were enacted having as their chief aim the elimination of strikes and lockouts, and in many cases (as in New South Wales) expressly prohibiting them, under severe penalties, the strike has by no means disappeared. The Statistician of the Commonwealth of Australia places the number of strikes and lockouts for Australia for 1914 at 334, involving time losses of 942,000 working days, as against 44 disputes only, in the same year, for Canada, with its much larger population, the Canadian disputes entailing time losses of 430,000 days. The comparison is yet more favourable to Canada if it is confined to the State of New South Wales, where alone, in 1914, the strikes numbered 235, with time losses of 727,726 days.

Just why the dominions and states of the South Seas should have shown so much greater activity in this field of legislation than has been manifested by the Dominion and provinces of Canada must remain a matter of interesting conjecture, but if the number of strikes and lockouts is a criterion of industrial unrest, then the figures quoted do not suggest that the comparative inactivity of Canada has brought a severe penalty.

The Canadian statute of 1907 is then in agreement with the laws of several countries in two important respects: (1) in being applicable to industries connected with public utilities; (2) in declaring that strikes and lockouts may not occur legally in these industries until after efforts at adjustment through official machinery have been made. In some countries, however, the prohibition goes beyond that of the Dominion law and is unconditional. The Dominion statute is exceptional in being applicable to the mining industry.

It was in 1906 that a prolonged strike in the Galt coal mines of Lethbridge, Alberta, brought about a severe shortage of fuel in southern Alberta and southern Saskatchewan. The Prime Minister of Saskatchewan, the province in which perhaps the difficulties were most acute, asked the aid of the Dominion government and the then Deputy Minister of Labour, Mr. W. L. Mackenzie King, was despatched to the scene of the dispute, this action being taken under the authority of the *Conciliation and Labour Act*. The efforts of the Deputy Minister and the increasing evidence of the hardships threatening the public combined to bring about a

settlement and the threatened fuel famine was prevented. Official reports of the period show that the incident caused special consideration to be given to the subject of industrial disputes legislation with a view particularly to the prevention of strikes or lockouts of such a nature as to jeopardize the public safety. The classes of industry known generally as "public utilities" are, clearly, those with which the public interests are most intimately identified. The term "public utilities" is somewhat loose and its interpretation varies in different countries. In New Zealand, for instance, bakers and slaughtermen (butchers) fall within the category, and from the point of view of the prairie provinces in 1907 there was much to be said for regarding the coal mining industry as a public utility. The interpretation clause of the Canadian act is of some assistance. The clause declares that "employer" means "any person, company or corporation employing ten or more persons and owning or operating any mining property, agency of transportation or communication, or public service utility, including, except as hereinafter provided, railways, whether operated by steam, electricity or other motive power, steamships, telegraph and telephone lines, gas, electric light, water and power works." It was of course inevitable that coal mines also were brought in. The statute prohibits under penalty a strike or lockout in any of the industries indicated until after the dispute which is in question shall have been before the Board of Conciliation and Investigation, and it provides for the establishment of a Board of Conciliation and Investigation on the application of either party to a dispute. The composition of a board was explained above.

The act gives the board the requisite powers for taking evidence, etc. Proceedings are public or private as may seem expedient to the board. The department pays fees and traveling expenses of board members, witnesses, etc., and for necessary clerical work. If the board by conciliatory effort brings the disputants together and a working agreement results, the dispute manifestly is ended. If this is impossible the board is required to make findings and recommendations showing how in its view a settlement should be made. Provision is made for a minority report. All reports are made public. The theory of the act is that the board's findings, being based on what is presumed to have been a fair and impartial investigation, will bring an informed public opinion to bear on the

matters which have been in dispute, and that either of the disputants who is unreasonable in his attitude will thus be induced to yield a point and accept the recommendations of the board rather than fly in the face of a public opinion which might be expected to sustain the view of the board; acceptance of the findings, however, no matter how urgent the apparent advantage or necessity, is not legally compulsory. Once the board's findings are made public the disputants, unless of course they have voluntarily bound themselves before the board by agreement, are freed from the restraining effect of the statute and the threatened strike or lockout may proceed. Penalties are named for those taking part in strikes or lockouts contrary to the terms of the act, also for persons who incite, encourage or aid those taking part in such strikes or lockouts. Clause 57 of the act aims also at preventing changes in conditions with respect to wages or hours save by mutual consent or until the proposed changes have been before a board. Procedure under the statute is on simple lines, and in practice the effort has been to free the tribunal so far as possible from the formalism of courts of law. Section 4 provides for a Registrar, and on the passage of the act the Deputy Minister of Labour became by Order-in-Council Registrar of Boards of Conciliation and Investigation. On the constitution of a board the Registrar forwards to the chairman the necessary documents and instructions. Certain provisions of the statute are intended to guard against the establishment of boards for trivial matters, and the practice and experience of the department are naturally of assistance to this end.

X The statute became law on March 22, 1907. It has been once amended (1909), but the amendments have affected only some details of procedure. Statements of proceedings under the act show that down to the end of the fiscal year 1914-15 there had been 177 disputes in which applications for boards of conciliation had been received. Boards were established in 158 cases. In the remaining 19 cases adjustments of the disputes were effected, usually through the agency of the department, without the aid of a board, though in some cases not until after the procedure for a board was under way. The total number of employees affected by the 177 disputes is placed at 231,426. The railroading and coal mining industries have figured most largely before boards of conciliation; street railway employees and longshoremen have also called for many enquiries.

In a great majority of the cases thus dealt with the strike or lockout which threatened was averted, either by positive settlement or by expressed or tacit understanding. During the eight years ended March 31, 1915, there were 19 disputes, in which the threatened strike was not averted. In other words, in about 11 per cent of 177 disputes brought under the statute no sort of understanding could be arranged between the disputants, who proceeded accordingly, to the last resort of all disputants, a trial of strength, which, the requirements of the law having been met, was no longer illegal. There are few lockouts in Canadian industrial life, and in the 19 disputes which could not be adjusted the trial of strength involved in each case a strike. Enquiry into the outcome of the 19 strikes in question shows that in the majority of cases settlement was ultimately effected closely, if not wholly, on the lines recommended by the board.

The annual appropriation for the purposes of the statute is about \$25,000, and the amount has generally proved sufficient to meet the expenditures.

A phase of the subject which should not be overlooked is that the machinery of the *Industrial Disputes Investigation Act* is set in motion by one or both of the disputants, or it remains still. A board cannot be established until an application is received from one of the disputing parties, but the non-establishment of a board does not lessen the restraint as to strikes and lockouts.

Reference has been made to the strikes occurring in disputes which had been before boards and had not been adjusted. There has been also, in industries coming under the act, a considerable number of strikes in disputes which have not gone before a board for investigation. Work ceased in these cases without regard to the act. Many of the serious coal mining strikes in Western Canada during recent years have occurred in this way.

What, it may be asked, becomes of the penalties prescribed for these apparent infringements of the statute? The reply must be that such cases have seldom gone to the courts. It has not been the policy of the successive Ministers under whose authority the statute has been administered to undertake the enforcement of these provisions. The parties concerned, or the local authorities, have laid information occasionally, and there have been in all eight or ten judicial decisions. The mining industry has been the chief delin-

quent in the matter of infringements, and there have been occasional derelictions on the part of the lower grades of transport or shipping labour; in the higher grades of railway labour the act has been well observed.

The usefulness of the act is perhaps better determined, in any event, less by the negative results in situations where the parties have, regardless of consequences, stayed deliberately aloof from its influences and operation than by the positive results obtained in situations where the parties concerned have, whether cordially or reluctantly, brought their differences within the scope of the act. The figures printed above show the very large proportion, 89 per cent, of cases where, in disputes thus dealt with, the threatened strike has given way to a peaceable arrangement.

A further point to be noted is that, apart from the direct bearing of the act on disputes in industries connected with mines and public utilities, its machinery is, by sec. 63, made available for industrial disputes of any kind, the consent of each disputant being, however, necessary where the dispute lies outside the stated industries; in such cases the statute becomes purely a measure of conciliation, as was the original Dominion statute of 1900. This feature of the *Industrial Disputes Act* has so far been less active than had been perhaps hoped. Of the 177 disputes brought within the influence of the act during the eight years ended March 31, 1915, ten were of what may be termed the "outside" classes, and in each case an amicable settlement was effected.

It will be manifest to those who examine the record of the act that much responsibility falls on the chairman of Boards of Conciliation and Investigation, who must of necessity be frequently the decisive factor in the efforts made at adjustment. In approximately one-half the total number (158) of boards which have been established the chairman has been appointed by joint agreement; in the remaining cases the appointment of the chairman has been made by the Minister. The small proportion of disputes going to boards in which the threatened strike was not averted (19 out of 158) would suggest that the chairmen, whether appointed by joint agreement or otherwise, have as a rule possessed the tact, skill and breadth of mind necessary for the difficult work of adjusting an industrial dispute.

There are three respects in which it is possible to look forward

to a widening sphere of usefulness for the act, as the sound reason of the principles on which it is based and the simplicity of procedure associated with it come to be more completely recognized by those affected and by the public at large, viz.: (1) the disappearance of unlawful strikes and lockouts; (2) an increasing disposition on the part of those concerned in disputes brought before a board to accept the findings of the board; (3) more frequent application of the machinery of the act to the settlement of disputes in "outside" industries. If the effectiveness of the two statutes under consideration can, in these important respects, be increased, Canada would seem to have come nearest among the nations to the discovery of that legislative alchemy which the industrial world has so long sought, and the reign of industrial peace would be at hand. But it is well that any prediction should be guarded. The factors that make for and against industrial peace, as with peace in the larger world of nations, are many and varied. Human motive is seldom based on reason alone. There are those who will not be content with what an Ontario politician once described as "cold justice," not at least while there appears a chance of "better terms," whether by an adroit manoeuvre or, sometimes, by rougher methods. Moreover the ancient problems, "What is justice?" "What is truth?" remain substantially unsolved and attempts at solution bring their clashes.

THE ATTITUDE OF ORGANIZED LABOR TOWARD
THE CANADIAN INDUSTRIAL DISPUTES
INVESTIGATION ACT

By A. B. GARRETSON,

President, Order of Railway Conductors of America.

To intelligently consider whether or not the Canadian Industrial Disputes Investigation Act can be successfully transplanted into the American labor field it is necessary to take into consideration its origin, the road which it has traveled and the result where used.

X The act had its origin in the Australasian region, where every influence that entered into its acceptance and application was strongly pro labor, where labor government controlled, where the courts were strongly sympathetic, and where every agency entering into its exercise operated to bring out the equities of the act. Transplanted into a somewhat different form of governmental machinery, it did not develop the elements of value which characterized its uses in the region where it had its birth, and instead of mitigating the evils which it was designed to remedy, it only succeeded in breeding an almost universal distrust of, and contempt for, legal machinery designed to settle troubles that should be settled between the parties thereto.

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X Any condition which breeds in the minds of large bodies of men contempt for law is, in itself, the very essence of all that is pernicious and no one thing is more subversive of good government than the enactment of laws which produce this result. Since the enactment of this law in Canada, had legal action been taken against every violator of its provisions, it would be shown that it has been an active element in creating an army of law-breakers, and when men violate a law with knowledge and impunity, that of itself begets a condition which operates strongly against respect for law.

It has been demonstrated time and again (and out of this demonstration grows the attitude of the laborers toward the act) that the compulsory period provided for investigation, during which men must remain at work, is almost invariably utilized by the em-

ployer, regardless of the spirit or letter of the act, to reinforce himself against the efforts of his men to better their condition and, at the end of the period, he coolly repudiates the finding of the commission, whatever it may be, and proceeds to operate his plant, regardless of the cessation of labor on the part of his men, whom he has used the time to replace, thereby demonstrating to men in general that the machinery of the law is to be utilized as a weapon to defeat the contentions of the men who labor, regardless of how just may be the claim which they put forward on their own behalf.

Industrial unrest, in all its phases, is augmented and added to every time that a man who in any degree possesses it has his beliefs strengthened that governmental agencies are not only created but administered as an aid to the man who employs him; that laws first are enacted for the benefit of the employer, and second, that they are administered by courts and tribunals, supported by, and prejudiced in favor of, the employing class; third, that governmental and municipal forces, city, county and state, also spring from, are affiliated with, supported and influenced by, that same class, and that every form of military agency, from city police and township constable to state militia and regular soldiers, is utilized, not as an impartial or neutral agency to maintain peace but as an economic weapon to be availed of solely by one interest and at the expense of the other.

Therefore, in the minds of the Canadian laboring men, the Industrial Disputes Act has been classed, from their experience therewith, among these agencies and the temper of Canadian laboring men thereto is shown by the fact that the Dominion Trade and Labor Congress, assembled last month, almost unanimously denounced the act as absolutely undesirable and demanded its repeal.

The railway brotherhoods are almost the only large class of employees who, in the Dominion, have scrupulously conformed to the provisions of this act and they have done this at an immense disadvantage to themselves.

To illustrate what the working of this act would have been had it been effective on this side of the line in the late controversy between the railways and their employees over the eight-hour question: In 1910 the Order of Railway Conductors and the Brotherhood of Railroad Trainmen had under way a wage movement covering what is known as Eastern Association Territory, this com-

prising all the railways of the continent east of Chicago, Duluth and the Mississippi River and north of the Ohio, a total of some eighty railroads, three of which are Canadian. The railways refused to deal collectively for the territory and negotiations opened on the Baltimore and Ohio Railway about January 10. Two days after that time negotiations opened on the three Canadian railways involved, two Canadian vice-presidents of the organizations being in charge of those negotiations. The last settlement of the seventy odd railways on the American side of the line was concluded on July 19, the settlement being agreed upon on that date. At six P. M. that same date the men on one of the Canadian lines went on strike on account of the delays interposed by the managements and made possible under the Industrial Disputes Act in effect on that side. If the seventy odd roads in American territory had been subject to the provisions of a like act it would have called for the creation of over seventy investigating boards and unfinished business on the Judgment Day would have been the natural result. In the late movement for the eight-hour day this would have been multiplied by the additional number of roads involved and ten years would not have been sufficient to have disposed of the hundred odd railways involved in the eight-hour movement.

The writer is not dealing with this question from hearsay but from actual experience therewith and as an outgrowth of that experience is strongly of the belief that no weapon as potent as this Industrial Disputes Act has been devised for defeating the legitimate effort of laboring men to better their condition. It is significant that in its place of origin, New Zealand, it has recently been repudiated by large bodies of working men, who proceeded to take action regardless of the provisions thereof because it has been demonstrated to them that it contains elements greatly to their detriment.

The real difficulty in the solution of these questions lies in the fact that nearly every remedy that is offered deals only with the effect of conditions. In the treatment of industrial strife it would be well to follow the general trend of medical schools for the past century. Formerly the mission of the doctor was only to cure. In later years greater effort is given to the prevention of ills, and until this course is pursued and the cause of industrial unrest is removed it will be found that the effort to abolish the disease is without result.

THE TREND OF VOLUNTARY CONCILIATION AND ARBITRATION IN LABOR DISPUTES

BY GEORGE M. JANES, PH.D.,

University of Washington, Seattle.

It is a popular fallacy that trade unions foment strikes and that striking is their reason for being. To this the trade unionist says: "Young and weak unions have many strikes; old and strong ones have few. If unions were mere striking machines, the opposite would be true." The importance of moderation is insisted upon by most labor leaders. Collective bargaining is the ultimate goal of nearly all trade unions, and to reach it not only organization but discipline is needed. Strikes are dangerous to the organization and costly. Hard experience has taught trade union officials that something more than enthusiasm is necessary to win a strike; and, while it may be true occasionally that a union thrives on opposition, a strike is not to be considered an end in itself. If the strike is lost, the better wages and conditions obtained by previous effort may be lost also. Experienced union officials, therefore, count the cost before entering on a struggle with the employer. The "get-rich-quick strike method," as it is called, is termed a failure. Paradoxical as it may seem, young and inexperienced unions often disintegrate after a strike is won, because it is easier to rely on promises than to continue the union and pay dues. But the retention of higher wages and better working conditions is usually contingent on the continuance of the union. The trade-union leader must not merely estimate the chances of success, but must also consider whether the ground won can be held. The law of the survival of the fittest has, therefore, brought about a more or less complete national control as opposed to local control of strikes in many unions, while in all there is unanimity of opinion concerning the value and need of organization and discipline. The domination of the national union over the local union usually means a conservative policy in the matter of strikes, as is brought out more fully by the writer elsewhere.¹

¹ Janes, George M., *The Control of Strikes in American Trade Unions*, Johns Hopkins University Studies, Series 34, No. 3.

Trade unions, however, vary in their composition and, like all other human institutions, have emotional and reasonable, radical and conservative men in their membership. Although it is true in the long run that age and closer organization bring about a conservative policy in the matter of strikes, the fact remains that trade unions vary from one another to a greater or less extent in point of view and policies pursued. The Industrial Workers of the World and the Western Federation of Miners, for instance, repudiate any form of arbitration or trade agreement with the employer and rely on direct action to attain their ends. The fruits of this policy are that the former organization is distinguished more for noise than for the real advancement of its few members, while the Western Federation of Miners is now on the rocks of disintegration. The Bridge and Structural Iron Workers, likewise, have relied on violence and the result is that many of their prominent members and former officials are now serving prison sentences. Another type exists, which has been termed the predatory one, whose officials use their position for extorting money for their own pockets from the employers—especially contractors—by threatening strikes or for terminating strikes. But the difference between trade unions is in reality no more than that which exists in the business world with the reliable merchant at one end and the "fence" receiving stolen goods at the other. The great mass of trade union members, like the great mass of business men, are trying to better their own conditions and have the same average ideas of ethics and justice as their neighbors. If this were not true, the use of conciliation and arbitration in labor disputes would be a vain dream.

Quite early in the development of American trade unionism it was realized by bitter experience that numerous strikes were disastrous and so rules were gradually adopted aiming at restriction of strikes to those disputes in which efforts at conciliation or offers of arbitration had failed to bring about an adjustment. This development is especially marked in those unions where the national union is dominant. The usual order of procedure in such unions in bringing about a strike is as follows: (1) the local union must exhaust all means of bringing about an adjustment of the difficulty; (2) the local union may then pass a strike vote which to be binding must be by secret ballot by a two-thirds or three-fourths vote of all members present, who have a standing of two or three months or

more; (3) the local union after this has been done must secure the approval of the national union, which generally means the national executive board, for the action taken; and (4) finally, only after exhaustive efforts on the part of the national officers or their deputies to bring about a settlement, can a strike be declared. A general vote of the entire membership, or that of the district affected, is taken before acting in a number of unions, especially the railroad brotherhoods. Even those unions in which local autonomy is the rule provide in some instances for arbitration by a provision in their constitutions that efforts for arbitration of disputes should be made before striking. The point of the procedure thus worked out is that time is allowed for a reasoned consideration of the dispute and for conciliation or arbitration with the employer instead of hasty, emotional, and ill-considered action at once. The trend in this direction seems to be quite general.

The sending of a national official to the scene of any trouble, or the "deputy system" as it is called, is a marked development of the principle of voluntary conciliation and arbitration. The function of the deputy is to go to the locality, investigate "the alleged matter of complaint," make an effort to adjust the matter, if possible, and report to the president and the executive board of the national union his conclusions and recommendations as to what course should be pursued. The agent or deputy is a representative of the national union, and his duties can be laid down only in a general way. As one trade union official has said:

The man on the ground representing the international union should use his best judgment; it does not matter whether he agrees with the local committee or not. If capable and experienced he is supposed to lead and not to follow. It is his duty to stand by the international union regardless of consequences, to protect the funds against waste and extravagance, and to maintain its reputation for a "square deal" with union manufacturers.

The deputy must be received by the local union, for if he is not permitted to perform his duties, strike benefits may be withheld by the national union and no further assistance granted. A strike entered into by a local union after refusing the offices of a national deputy would be illegal and would subject the local union to discipline such as a fine or loss of charter and strike benefits.

In all the unions that have adopted the "deputy system" it is regarded as important that the deputy should be on the ground

before a strike is begun. It is required, therefore, that the members involved continue at work pending investigation and until a final decision has been reached. The rule has worked well; for any dispute can be more easily adjusted before an actual breach has occurred. President Martin Fox of the Iron Molders has observed that this rule "has strengthened the position of the union and proven beneficial in all cases." President Menger of the Operative Potters in an interview with the writer said:

If an international officer can get on the ground before a grievance has assumed large proportions and before either side has committed itself, a settlement can be more readily brought about than if the affair is allowed to go on.

A representative coming in from the outside is frequently able to compose differences which the parties themselves cannot settle. Those who are involved in a quarrel are not the best qualified to appraise its merits. Investigation by a party not previously involved is always helpful. The deputy acts as a mediator between the local union and the employer, and is often able to eliminate the local prejudice or personal feeling between the two parties. It is true that the deputy comes as a friend of the union; but he takes into account other considerations than the success of the local union. As a representative of the national union, he must consider whether the local union is justified in its demands, and whether the demands have been made in the proper spirit. All of these considerations make him a mediating element more or less independent of the local union. The Cigar Makers report that one of their deputies met the employer seventeen times before a settlement was finally effected. An editorial comment says:

The union will grow more rapidly in the future than it has in the past as soon as it is made clear that we as an organization have no desire to take an employer by the throat and make him do things regardless of whether competition, location and his business will permit.

The deputy usually remains on the ground in case of a strike and continues his efforts for an adjustment of the dispute, or he may be sent directly to take charge of a strike. A good deal of authority is given to the deputy in strike matters. His decisions are binding in some unions and subject to approval by the executive board or by general vote in others. If he is able to reach an agreement with the employer he can terminate a strike in some instances even if the

local union objects. The deputy system, or some form of it, is now found in a large number of national unions. The tendency of the local unions is to turn more and more to the national officers in case of grievance, lockout, or strike; the work of the deputy has thus increased in quite a large measure and has resulted in the peaceful settlement of many disputes.

A word of caution is in order here: national unions vary in organization, discipline and financial resources and no general statement holds true of all of them. Some national unions, for instance, do not pay strike benefits and their local unions have complete autonomy in the matter of strikes. Even in these unions the advice of the national officers is often sought if not always followed. An indication of the trend of development is seen in the Hod Carriers' and Building Laborers' Union, which pays no strike benefits but which sends its president or a special organizer to direct strikes. Other national unions give their local unions the right to strike on their own initiative when only a small number of men is involved, or when, as in some unions in the building trades, the strike concerns a particular building or job, or when no financial assistance is expected. But even in these cases just cited, a national deputy is often sent by a number of national unions if a general strike is threatened. The source of control is in the power of the purse, the granting of strike benefits by the national union, and while it is true that a refractory local union occasionally defies national authority such action is coming to be an exception to the usual rule. "One 'Get Away' with holding up the parent body," to quote the expressive words of one union official, "does not mean that it can be done whenever the whim seizes a union or a number of unions." A radical membership, likewise, adds to the difficulties of control. The secretary of the Ladies' Garment Workers' Union, for instance, reports that in addition to ordinary difficulties "our immigrant members have their heads full of revolutionary stuff, which they read in the Jewish radical press, written by men who have little sympathy with our movement, understand it less, and to whom unions and strikes are only useful as a means of carrying on the 'class war.' To these the idea of adjusting labor disputes without constantly resorting to strikes is gall and wormwood." Another group of national unions includes the older and more highly organized unions which pay strike benefits and emphasize the necessity

of discipline. In this group the deputy system has already brought about good results and it bids fair to be more effective in other national unions as time goes on.

The trend of voluntary conciliation and arbitration is seen in the procedure necessary before a strike can be called and in the development of the deputy system, but is more clearly indicated in the increasing use of trade agreements. The interesting point in this development is that there is no stoppage of work or strike pending investigation and settlement of any dispute. These agreements fall into two classes: the first where the agreement is directly between an employer's association and a national union, and the second where it is between a local union and a local employer. The Iron Molders, for instance, have had agreements with the Stove Founders' National Defense Association since 1891. Annual conferences with the manufacturers were begun by the Flint Glass Workers as the outcome of a strike settlement in 1888, but the method was not made a constitutional rule until 1891. The method of agreement of this last union was followed later by the Amalgamated Glass Workers, the Glass Bottle Blowers, and the Window Glass Cutters and Flatteners. The Operative Potters, after a disastrous strike in 1894, at their convention of the same year, first discussed the making of an agreement with the manufacturers, and after several years of discussion an agreement was entered into, to go into effect in 1900. This agreement has been renewed annually since then and no general strike has ensued. Since 1900 the Bricklayers' and Masons' Union has entered into agreements with contractors in various parts of the country providing that all differences that may arise be sent to headquarters for adjustment. Pending same, no strike can be entered upon by the members. Since 1901 there have been agreements between the American Newspaper Publishers' Association and the International Typographical Union, and later the Stereotypers', the Printing Pressmen, and the Photo Engravers' unions were included. The Coopers' International Union in 1905, the Granite Cutters' Union in 1907, and the National Association of Machine Printers and Color Mixers in 1909 entered into agreements with national employers' associations. A larger part of the membership of the United Mine Workers is now working under district agreements. The International Longshoremen's Association has also since 1900 entered into various agreements. The

various railroad brotherhoods, such as the Locomotive Engineers, the Locomotive Firemen and Enginemen, the Railroad Conductors, the Railroad Trainmen, and the Railroad Telegraphers, beginning with the Locomotive Engineers in 1874, have made agreements with the railroads governing wages and working conditions; in case their local and general committees and national representatives fail to bring about an adjustment of difficulties recourse is usually had to the mediators designated in the Erdman (now the Newlands) Act. In case the mediation proceedings are ineffective, the dispute may go to arbitration. Leaving aside the railroad brotherhoods the interesting part of these agreements is the method provided for the settlement of disputes. The agreement between the Dredge Owners' Protective Association of the Great Lakes and the International Brotherhood of Steam Shovel and Dredgemen provides for the settlement of disputes in the following way:

In the event of a controversy arising between the parties hereto, or in the event of the men having a grievance, they shall continue to work and all such controversies and grievances will be settled if possible by the representative of the employer and the representative of the men. If such controversy or grievance cannot be settled by them, then it shall be arbitrated by choosing a third disinterested man upon whom the representative of the men and the representative of the employer may agree; if the representative of the men and the representative of the employer cannot agree, then the matter shall be submitted to the representative of the general organization of which he is a member, and the general manager, or his representative of the Dredge Owners' Protective Association of the Great Lakes, and if they cannot agree, then they shall choose a third disinterested party, and the said three shall constitute a Board of Arbitration and the decision of the majority thereof shall be final and binding, and all parties hereto shall abide thereby. It is expressly understood and agreed that said Arbitration Board shall meet within ten (10) days after the occurrence of the difference requiring arbitration has been submitted to them.

The arbitration agreement between the American Newspaper Publishers' Association and the International Typographical Union provides much the same method as the above. Local conciliation and arbitration are provided for and in case the local attempt fails or is not satisfactory an appeal may be made to National Board of Arbitration which consists of the three members of the executive council of the International Typographical Union and the three members of the special standing committee of the American Newspaper Publishers' Association, or their proxies. The finding of the majority of the national board is final and must be accepted as such

by the parties to the dispute under consideration. No aid or support is given to the firm, employer, or local union refusing to abide by the decision.

Local agreements, or collective bargaining, without an arbitration clause, are and have been numerous. The interesting development is the increasing insistence that all local agreements shall contain provisions for arbitration. The bricklayers have been foremost in this policy. The New York agreement with the Mason Builders' Association came into existence in 1885 and contains a provision for arbitration. The same policy is found in the numerous local agreements entered into by the various unions connected with the building trades with builders' associations in leading cities. The Bakery and Confectionary Workers, the Barbers, the Boot and Shoe Workers, the Brewery Workers, the Glove Workers, the Granite Cutters, the Horseshoers, the Machinists, the Pavers, the Steam Engineers, the Steam Fitters, the Tile Layers, and the Tobacco Workers, are some of the national unions which require their local unions to have an arbitration clause in their agreements. A typical arbitration clause of a local union of the Bakery and Confectionary Workers in Washington, D. C., is as follows:

All differences between Union No. 118 and the Washington Merchant Bakers' Association (or individual firm involved) that cannot be settled through the Business Agent of Union No. 118 shall be referred, first to three committees, one each from Union No. 118, the Grievance Committee from the Central Labor Union and one from the Washington Merchant Bakers' Association (or the firm involved). If these three committees cannot adjust the difficulty then arbitration shall be accepted as follows: Two disinterested parties are to be selected by the Washington Merchant Bakers' Association (or the firm involved), one member of the Grievance Committee of the Central Labor Union, and one disinterested person to be selected by Bakers' Union No. 118, these four selected to endeavor to adjust the matter in dispute, but in the event of failure to agree the four to select a fifth member of the committee on arbitration, and the decision of this committee to be final and to be accepted by all parties involved in the question.

These local agreements must usually be endorsed by the national union in order that as uniform a policy as possible be carried out. There seems to be a growing tendency according to statistics compiled by the New York State Department of Labor to insert arbitration clauses in local agreements.

Compulsory arbitration and even voluntary arbitration when it involves the calling in of only an outside party to adjust a diffi-

culty is bitterly opposed by some trade-union officials. It is regarded as a broken reed to lean upon because the causes of strikes are according to these officials new desires and new demands which the rules of the past cannot satisfy. The question of wages and fewer hours is based on the problem whether or no the condition of the given business will justify the paying of higher wages or a reduction in the number of hours of work, and an outsider in the nature of things is said to know nothing about the relative merits of the case. Arbitration according to this view is regarded as the strongest weapon of the employer and the reason given in support of this theory is that such an arbitrator would be guided solely by the arguments of the employer concerning his ability to grant the demands. Labor organizations are advised to make sure that their demands are just and then to fight until they win them. Some unions rule out of the realm of arbitration any proposition to lengthen the hours of labor, and of course all stand firmly for the right to organize. The eight-hour day in the crafts where it exists was brought about by strikes, say trade-unionists, with the further statement that it could not have been obtained by arbitration. Another objection is that arbitration leads only to compromise and thus at times to no definite conclusions; but the answer to this is that all political and social progress of a permanent kind is based on compromise; a step at a time.

The complaint has been made that in recent years the strike has been commercialized and is now based more on the principle of expediency than on the principle of justice. The complaint contains some element of truth, but it is nearer the truth to say that the strike by means of trade-union organization and experience has been transferred from the realm of emotion to the realm of reason. Organization generally means fewer and not more strikes, conciliation and arbitration being used in the settlement of many disputes.

Strike statistics for the United States are available only until 1905. They show that there has been an increase since 1881 in the absolute number of strikes, but a slower increase, or even a decrease, in their number relatively to the growth of industry. The development seems to be in the direction of an occasional large strike as over against many small ones. A number of national officials say that so far as their organizations are concerned the adoption of a policy of conciliation and arbitration has reduced the number of

strikes. A report of the growth of the Boot and Shoe Workers' Union says that the adoption of arbitration "marked the passing of the strike" in that organization. The Amalgamated Association of Street and Electric Employes, which has for its motto, "We are always ready to arbitrate our disputes," also reports a diminishing number of strikes on account of the adoption of arbitration. Too much cannot be made of a few cases, but there seems to be a consensus of opinion among both trade unionists and employers that the reasonable method of voluntary conciliation and arbitration has been very effective in settling disputes and in reducing the number of strikes.

Many of the sensible, intelligent and fair dealing trade unions are adopting the principle of voluntary conciliation and arbitration. Strikes, it is realized, mean industrial war and, as in all wars, the strongest side and not necessarily the right side wins. The right to strike is held to quite tenaciously but the tendency seems to be to substitute reason for force. But as it takes two to make a quarrel so it takes two to make an agreement. Between the arrogant, stubborn employer on the one hand and the unreasonable, turbulent labor leader on the other there is little to choose. "Nothing to arbitrate" means that there is no necessity for arbitration, and is based on the old principle that they should take who have the power, and they should keep who can. As a sagacious labor leader observed to the writer, "nothing to arbitrate means drunk with power."

Voluntary conciliation and arbitration is not a panacea—the human equation is still there—but it furnishes a means for bringing the employer and employes together and also a method for settling disputes. Mr. H. N. Kellogg, of the American Newspaper Publishers' Association after reviewing the history of the agreements with the unions of the printing trades, declares that "arbitration is the most sensible and the best method for settling labor disputes that has been developed up to this time."

THE REVISED PROTOCOL IN THE DRESS AND WAIST INDUSTRY

BY JULIUS HENRY COHEN,

Author of Law and Order in Industry and The Law:—Business or Profession?

Events in the garment industries of New York take place with such rapidity and are so kaleidoscopic in shape that it is hopeless for one not himself a participant to keep them connectedly in mind. Yet these combinations and permutations, if analyzed, have very instructive value, and, properly interpreted and applied, bring great consequence to the industries of our country.

There is a very clear division in New York City between the men's and women's clothing industries. As to the men's industry—so far as this city is concerned—a very substantial part of the men's clothing industry was, up to a short while ago, working under a trade agreement between the American Clothing Manufacturers' Association and the Amalgamated Clothing Workers' Union, with an arbitral tribunal consisting of Charles L. Bernheimer, Dr. J. L. Magnes and Dr. Henry Moskowitz, as a committee of moderators. This trade agreement was recently abrogated by the employers because of the failure of the workers to observe a decision of the board of arbitration. As to the women's industry—the women's wear industry, on the workers' side, is largely represented by the International Ladies' Garment Workers' Union. The employers are divided into various groups. The manufacturers of cloaks, suits and skirts are now represented by one association, the result of a consolidation in 1915 of what had been theretofore two employers' organizations; the manufacturers of dresses and waists are represented by another association, the manufacturers of children's dresses by a third, the manufacturers of ladies' undergarments by a fourth, the embroiderers by a fifth, and the house dress and kimono manufacturers by a sixth. All these trades are now working under trade agreements with the union. It was in the cloak, suit and skirt industry, covering about 60,000 workers, that the protocol plan was first devised and kept in operation for a period, roundly, of about five years and a half. It will be recalled

that the protocol was terminated in 1915, subsequently revived by the action of the Mayor's council of conciliation, consisting of Dr. Felix Adler, Chairman, Louis D. Brandeis, Henry Bruère, George W. Kirchwey, Charles L. Bernheimer and Walter C. Noyes, and again terminated in 1916 by the union upon the charge that the manufacturers had refused to follow a decision made by the Mayor's council of conciliation. The lockout and the strike that followed are current newspaper reading. I have endeavored, in *Law and Order in Industry*, to give an impartial review of these experiences up to the time I ceased to act for the employers (August, 1915).

In the dress and waist industry recent developments bear materially upon the general movement for progress in industry. Some of these developments I believe warrant immediate consideration on the part of those who would seek to secure fairness and equity in industry through processes of law and order. As the result, first of conferences between the parties and, later, awards by the board of arbitration (Hon. Julian W. Mack, Hamilton Holt¹ and Robert W. Bruère), the dress and waist protocol originally made in 1913 has been revised and readjusted to meet the experiences of the past three years.

I think Mr. Morris Hillquit (counsel for the International Ladies' Garment Workers' Union) will agree with the statement that, in many respects, this recently revised protocol, over which he and I fought in the making, is as superior to the old protocol in the cloak industry as our federal Constitution is superior to the old Articles of Confederation. Indeed, Mr. Hillquit stated in the course of the proceedings before the board of arbitration that it was his hope that the document devised through these legislative processes would become the model for all the industries with which the International Ladies' Garment Workers dealt. In view of the pioneer nature of these protocols and the unusually chaotic condition of the industries in which they have been evolved, it would be rather anomalous if experience did not develop weaknesses and necessitate new invention. If one will look at the Patent Office models showing the evolution either of the modern electric locomotive or the modern automobile—mark even the improve-

¹ Mr. Holt resigned in May, 1916, and Charles L. Bernheimer was substituted in his place.

ments of the past decade—he will appreciate why a piece of newly devised industrial machinery intended to serve the needs of a complex, highly emotional and unorganized industry, requires constant readjustment and changes to meet weaknesses revealed in practice.

There seems to be a rather current belief that there is presented to employers today a clear choice between peace and war. This is a fundamental error made by nearly all critics of the protocol. The fact is that as long as *we* live, and for a longer period still, we shall have *conflict* in industry. We shall not have *peace*. The real choice is not between peace and war, but between *conflict* and *conflict*. Or, put in another way, the question is: *How shall inevitable conflict be met so as to conserve the best interests of all parties concerned?* War carries with it incidents of physical violence, law-breaking, damage to property, peaceful or unpeaceful picketing, starvation of workers, ruination of employers, disturbance of the public peace—the general breaking down of moral restraint and discipline. Just as wasteful as war, it is the bare truth to say that in carrying the burdens of the waste, the cost falls more heavily upon the worker. Not that employers do not suffer; but the suffering cannot be so poignant. While in the ranks of employers and workers alike are always to be found men eager to shake the fist, eager to beat the head, to smash windows or to “starve ‘em out,” the cooler, reasoning, experienced men, who, either through personal suffering have learned their lessons, or through trained imagination understand the cost, counsel against war—*except as a last resort*. Now, obviously, both employers and workers have *rights*, and each collective group has its *policies*. As in national, state and municipal affairs, there is conflict between opposing policies and oftentimes bitter conflict between the rights of various interests in the community. We do not settle *such* conflicts by violence or by starvation. Defective as our legislative and political processes are—with all the evils connected with our present electoral machinery—we still hold fast to our faith in the parliamentary and juridical method. We sometimes wait a decade before courts modify their decisions. In the retrospect, we wonder how error is so frequent, and yet we wonder why it is not more frequent, since the human animal, with all of his infirmities of temper and intellect, is the instrument through which we operate.

Within the limits of an article such as this, it is, of course, impossible to define the scope of the general conflict. For the present, it will be enough to say that the modern employer, willy nilly, is bound to represent and express in social economy today a sturdy and justifiable movement for efficiency, economy and elimination of all waste. To secure the result he must stand for a better equipment of the workers and a better discipline in the shop. "Shop organization" is the key to shop efficiency. The direction of the shop organization, the maintenance of discipline, and the selection of men upon the basis of efficiency are essential conditions of the progress of industry. This, of course, does not mean that he should ignore "the human rights of the worker."

On the workers' side, we find—whether we like it or not—they have determined, as they have the right to determine, that the regulation of wages and conditions of labor shall no longer be treated as a matter of individual bargaining. The trades union is here and here to stay. It represents something that has an inherently sound basis—whatever sound criticism from time to time may be made either of its acts or its policies. The trades union is the workers' "attorney in fact"; it presents in organized fashion what the workers believe to be their due. It would be an anomalous situation if such organizations did not often ask for more than they were entitled to, or more than the particular industry could stand at the moment of their asking. Here, then, is *conflict*—conflict similar in many respects to the conflict over definite pieces of legislation at Albany or Washington. How shall it be handled? By processes of reason, by analysis of the facts involved, by application of sound economic principles?

But behind all of the specific proposals we must admit that there is something more—there is a movement for the greater democratization of industry, the effort to control, or, if need be, to destroy the heretofore existing autocratic government of the employer in industry. It is, indeed, the consciousness of this movement on both sides that brings the real clash. Mr. Rockefeller was made aware of it. With the aid of Mackenzie King, he has earnestly endeavored, I believe, to meet it in his *New Industrial Republic*. Let us make no mistake. We are dealing with tremendous social forces—the inevitable movement for industrial discipline and efficiency coming up one avenue and the equally inevitable move-

ment for industrial democracy coming up another. The two should not clash; they are not inherently antagonistic to each other; but the effort of each to press forward its particular claims or application at the moment brings conflict. In this conflict each side takes its stand and fights. But how fight? With fists, with clubs or hunger as the weapons? Starvation versus violence? This is not the American way of meeting great issues. It goes against our grain to settle such conflicts with the gun or the bludgeon. It makes law and order a synonym for oppression, rather than for fair play.

On the other hand, the appeal to arbitration comes sometimes from employers and sometimes from workers, as the refusal to arbitrate comes sometimes from one and sometimes from the other. In 1894 the country is plunged into industrial war. Then the railroad managers refuse to arbitrate. In 1916 the railroad managers plead for "the sacred principle of arbitration in industrial disputes." Now the men refuse. In 1916 the president of a street railway system and an entire organization of manufacturers refuse to arbitrate, and in both instances the workers plead eagerly for "the sacred right of arbitration." How comes it that the refusal to submit industrial controversy to impartial review comes sometimes from the employers and sometimes from the workers? And why is it that society itself, refusing in this day to permit men to settle private controversy by private war, still suffers lynch law to reign in the field of industrial disputes? Is industrial controversy, involving large masses of people, disturbing whole communities, bringing starvation or bankruptcy or both in its train—is it a private matter—when even the laundress, if she is refused her pay, may not take her 60 cents from her mistress's pocketbook, but must go to court and sue? Let men be right as heaven itself, who shall be permitted by coercion to win his way, to trample over neutrals, to hack his way through to the goal of his wishes? We allowed capital to do it. For a while we gave it free rein, until it became unbearable—then society found a way to curb capital. We let the nations do it, yet now we earnestly believe that a way will soon be found to curb even the nations. How soon shall we say to *both* capital and labor: "Neither of you shall coerce the other by force of your power. Justice, not might, shall determine this controversy between you."

Why has the judicial method for settlement of industrial disputes found such opposition?

There are two important reasons among many. The railway men say:

"Yes, we went to arbitration, and got beaten. The impartial arbitrator showed he had the capitalistic bias."

The cloak manufacturers say:

"The arbitrators are uplifters. They always sympathize with the men. They give us the worst end of it."

We must not delude ourselves. Men have had their fingers burned at the furnace of arbitration. There is no quarrel with the courts when the judges are free from bias, go into all the evidence, courageously decide the issues and decide them right; but when judges are biased, are inefficient, lack courage or understanding, then the country demands "recall of judicial decisions" or "recall of judges," until, awakening to the real trouble, we find the right men, put them in the right places, and secure a renewal of confidence in judicial machinery. Even then judicial error multiplies. The latest volume of Appellate Court Reports discloses how judicial error creeps into the very best and unbiased of judicial intellects. Do we, then, prefer anarchy or Lynch law? No; we take the judicial method as we take matrimony—for better or for worse. But there is another reason for the refusal to arbitrate, much more fundamental and much more difficult to correct. It is the "balance of power" theory applied to industrial affairs. Nearly all of the old writers on collective bargaining approved of it on the theory of checking abuse of power by employers by the organization of the workers, and vice versa. A strong employers' organization will curb a strong union from abusing its powers, just as a strong union will curb the employers. The theory resembles the "balance of power" theory in international affairs, whose futility as a means of protection to neutral or weak powers is now graphically demonstrated. The truth is that in industrial affairs, as in international affairs, the "balance of power" theory is good when you hold the balance. When the other fellow holds the balance it is all wrong. Now, balance the power of the strike with the power to discharge—how comfortable for the employer if there is a large surplus of labor; how comfortable for the workers when there is a large shortage of labor! No more empty weapon of

defense can be given to an employer than the right of discharge in the height of the season when he cannot get help and the customers are clamoring for their goods. In Bridgeport the Remington munitions works take all the men who go on strike elsewhere. What power is the right to discharge in such a time? When the scale turns and there is shortage of work again, then the power of the strike becomes an empty weapon for the workers.

When power is asserted to coerce acceptance of one side's view, it prevails only for the time being. Napoleon prevailed until all Europe turned. The Kaiser got almost to Paris before weakness could gather up her skirts and bring new power to her side. Schrecklichkeit has its day and then it gets the day after. And "the day after" arrives sooner now than it did in Napoleon's time. New powers unthought of are released to punish the offender. It is a simple psychological law that decision produced by coercion begets rancor, hatred and release of new powers of coercion; the defeated party retires only to hit the other fellow a crack when he finds him a little groggy on his legs. So industrial warfare goes on and on and on—action and reaction—until each side is driven to "quits," solely because of exhaustion. Thus, while we put the emphasis on the necessity for avoiding waste in industry, we resort to the most wasteful process for adjusting industrial controversy.

The protocol method, in its final analysis, is merely a human effort, earnest though imperfect, to apply to inevitable conflict in the industrial field the modern processes of reason, to borrow from constitutional government, from legislation, from jurisprudence, from social economics, from business, from everywhere, the best that human brain has yet evolved to establish a more orderly and less wasteful method for meeting such crises and concrete issues as they emerge from below. For want of a better method we adopt what we are pleased to call the legislative and juridical.² The choice for the employer and the worker, too, therefore, is not a choice between *peace* and *war*, but a choice between *conflict on the plane of the savage* and *conflict on the plane*

² See in this connection the following recent articles: *The Development of Government in Industry*, by Earl Dean Howard; Editorial Note: "A New Field for Systematic Justice," by John H. Wigmore, *Illinois Law Review*, March, 1916; "The Need for Industrial Jurisprudence," by Walston Chubb, *The Standard*, March, 1916.

of the civilized man. The latter plan, of course, involves honorable, rational, fair dealing—effort to agree where agreement is possible, frank agreement to disagree where agreement is impossible, and the application of the process to the disposition of disagreement. Imperfect as we know these processes to be, we know they are better and less wasteful than the processes of the savage. Who is satisfied with the work of state legislatures or of Congress or of municipal government generally, or even with the courts? We are just a little bit farther away from darkness, that is all. The choice is between something *worse* and something *better*, not between something *wholly good* and something *wholly bad*. It is a curious thing that business men, who are most ready to avert a lawsuit by compromise or commercial arbitration, are often the first in their labor disputes to insist upon a fight. They fail to judge by putting side by side one set of conditions with another. There is no panacea yet invented to cure these "labor troubles." They are *labor troubles* in another sense; they precede the birth of new ideas.

The revised protocol in the dress and waist industry will justify scrutiny because it is a recent effort to meet industrial difficulties with resourceful invention. It is more than a renewal of amicable relations now having a three years' background. It is a re-statement, a re-application of principles, a renewal of effort to make the statement of these principles more definite and their application more workable in practice. Within the limits of this article it will not be possible to give a full résumé of the provisions of this document.³ But several points of general interest may be considered now.

First of all, upon the efficiency and economy side, the revised protocol recognizes clearly that, for the present at least, the selection of workers, the assignment of work, the organization of the factory and the determination of all administrative problems must be left with the employer. It is the abuse of this power, where it results oppressively to the individual worker, that furnishes the basis for complaint. The new statement is contained in the following:

The employer is entirely free to select his employees at his discretion, free to discharge the incompetent, the insubordinate, the inefficient, those unsuited

³ Copies will be available presently for all those who are interested.

to the work in the shop, those subversive of order and harmony in the shop and those unfaithful to their obligations. He is free, in good faith, to reorganize his shop whenever, in his judgment, the conditions of business should make it necessary for him to do so, and he is free to assign work requiring a superior or special kind of skill to those employees who possess the requisite skill.

In the next place, there is a new treatment of the matter of shop strikes. There is probably nothing which is so irritating to employers as to find that protocol inhibition of shop strikes is not effective as an insurance policy. Employers expect in joining an employers' association under agreement with the union to secure insurance coverage against strikes. Shop strikes are not always official strikes. In reality, they are more often shop *mutinies*. To attack this disease has occupied the time and attention of association and union officials for several years. The recent award of the board of arbitration in the dress and waist industry made after weeks of debate and consideration is the most forward step ever taken, so far as I know, in any collective agreement either in this country or abroad. This new award provides that:

If in the case of a shop strike, the union shall order the workers to return to work and if they shall fail to obey such order, *they shall forfeit all rights under this protocol* and shall in addition be subject to punishment by the union to be reported promptly to the association.⁴

If a chief clerk or a deputy or other officer of the union or association shall condone or connive at a shop strike or a shop lockout or fail to perform his duty in respect thereto, the organization whose member is affected adversely thereby shall have the right to complain to the other organization and ask for the punishment or removal of such officer. The failure of such organization to act promptly and fairly on such complaint shall constitute a grievance to be presented to the board of arbitration. The board shall have power to direct that organization to take such disciplinary measures against such chief clerk, deputy or officer, including fine, suspension and removal from office, as such board may deem proper.

If either organization shall fail to carry out any of the duties required under this agreement to be performed by the organization as such, the other organization may present such failure to the board of arbitration as a grievance, and the board of arbitration shall have power to impose such fine, as in the judgment of the board shall seem just or necessary in the premises; the fine to be paid into the treasury of the board of protocol standards.

A willful neglect or refusal to comply with a decision of the committee on immediate action or of the board of arbitration by a member of either organization shall have the effect of depriving such member of any of his rights under the protocol.

⁴ Similar provision operates against the employer in case of a lockout.

I asked the board of arbitration, on behalf of the employers, for the following provision:

If the chief clerk or any deputy shall fail to perform his duty under this article, or if any officer of the union shall authorize a shop strike, the union will make good all pecuniary damage suffered by the employer in consequence thereof.

The board declined to give the employers a remedy by way of damages. Instead it first established a system of penalties, and next, defined the duties of the parties in dealing with shop strikes or lockouts. The board makes it clear that an official of either organization guilty of violating the protocol is to be disciplined upon the finding of the board of arbitration.

I am not prepared to say that this is as perfect a legislative provision as can be devised to meet this evil, but it marks one advance. It clearly accepts the principle of organization and official responsibility. It definitely fixes the duty of the officers of each organization to preserve order and enforce the law of the parties' own making, and it vests in the final tribunal complete powers of discipline. When the import of these provisions is fully realized by those who are affected, I am satisfied that they will minimize, if not wholly eradicate, shop strikes.

Next in order of importance to employers is the competitive effect of a protocol arrangement. The union has never failed to admit the necessity for enforcing upon non-association employers the same conditions of labor as are agreed upon with the association. The difficulty of making good in the past has come from the absence of available machinery for enforcing standards against non-association employers. In the non-association shop the worker and the employer could, by private agreement, waive standards, though on paper the contract with the union would require the same standards as those provided in the protocol.

The attempted solution of this difficult problem in the revised agreement in the dress and waist industry is the creation of the *board of protocol standards*. This board is made up of nine persons, three representing the association, three representing the union and three representing the public. It has no power to *make* standards. On the other hand, it is given comprehensive power to investigate regularly throughout the entire industry and to enforce standards to the full extent of the power of both organizations. It is likewise given broad power to settle controversies relating

to the application of standards already agreed upon. The scheme of its organization has been borrowed from the scheme of the joint board of sanitary control—the board which has done such effective work in elevating and enforcing standards of sanitation and safety throughout New York City in both the cloak and suit and dress and waist industries, and is now practically engaged in rebuilding and relocating the entire factory district of the city. The union is required to file with the board of protocol standards copies of all agreements it makes with non-association employers. Each of these agreements contains a provision authorizing inspection of the shop and examination of the books of account of the employer for the purpose of determining whether or not the standards agreed upon are actually enforced. There is thus provided full opportunity for impartial investigation into the facts in the case of the non-association employer as well as in the case of the association employer.

One result of the adoption of this principle has already taken place. The board of arbitration made awards advancing the minima standards of wages and reducing the maxima standards of hours of labor and of overtime, and the union agreed to enforce these awards in all their dealings with non-association employers. Later on, the union filed with the board of arbitration and submitted to the inspection of the association all of the contracts it had made with such employers. Examination of these contracts revealed exemptions and modifications sufficient to justify complaint upon the part of the association that many of the awards made by the board of arbitration had in fact been ignored in the dealings with non-association employers. Upon presentation of this evidence, the board of arbitration modified and revoked its previous awards, adopting the principle that the conditions in the association employers' shops were to be no more onerous than those imposed upon non-association employers. Stripping the situation of its technical features this means, broadly, that the board of arbitration, when presented with the facts, accepts as a guiding principle that greater burdens are not to be imposed upon members of the association than the union can enforce against non-association competitors.

As this new piece of industrial legislation is being put into operation, it has already revealed imperfections; one point—the expensiveness of its operation—has already become apparent.

But may we not record the hopeful reflection that it marks a distinct advance in applying analysis and ingenuity to a most troublesome industrial problem?

There is in the needleworking industries another sore spot making for acute and difficult situations. That is, the method of settlement of piece prices. Piece prices in the dress and waist, as well as the cloak and suit industry are settled by the process of haggling, the workers in the shop represented by their price committee, the employer acting either personally or through the foreman or superintendent. There are no fixed standards of prices to govern, and delay in the settlement of prices makes not only for friction, but for great waste. The protocol of 1913 in the dress and waist industry took a step forward. While in the cloak industry the process of not working upon "unsettled garments" continues to this day, in the 1913 dress and waist protocol it was provided that work *should not be stopped*, but garments should be made with the provision that when the prices were settled, they operated retroactively. In the cloak and suit industry, until the award of the council of conciliation in July of 1915, there was *no base rate* upon which the piece rate might be estimated. In the 1913 dress and waist protocol a base rate was fixed; that is to say, thirty cents an hour was fixed as the base, which, multiplied by the estimate of the number of hours it would take an average skilled operator to make the garment, would make the piece price on the garment. This base rate was determined upon the theory of the average skilled operator, and covered a continuous hour of work. In other words, it was assumed that an average skilled operator should make thirty cents for each continuous hour of work; that, therefore, the more skilled operator would earn more than thirty cents an hour, and the less skilled would earn less. Assuming that a garment would take five hours to make, the piece rate would be \$1.50. The worker who could make it in four hours would get \$1.50 for four hours' work, and the worker who took six hours would get \$1.50 for six hours' work. But how were you to determine in advance how many hours it would take the average skilled worker to make the garment? There was the rub. It presented and still presents a most difficult technical problem to solve. In 1913 the solution accepted was the *shop test*. Employer and worker each selected one person of average skill to test out the garment,

and upon the basis of such a test the number of hours was fixed, multiplied by thirty cents, and thus established the piece rate. Actual experience demonstrated that the *shop test* was not a practicable or fair test; it produced conflict and friction, and both sides sought a new and better method. The revision of the dress and waist protocol presents now the plan or scheme of the *test shop*. The *test shop* is a place where tests are to be made under impartial supervision, the shop being managed by representatives of both the association and the union. *The controversy is thus taken away from the shop, where it causes friction, to a place where it is to be settled impartially by people not connected with or interested in the shop.* It is too early yet to report upon this experiment.

Still more important is the application of the "log" or "part system" to the fixing of prices. In the *Report on Collective Agreements between Employers and Workpeople in the United Kingdom* issued in 1910 will be found numerous illustrations of what is known as the "log system," wherein the mechanical operation is split up into parts and a definite estimate of time fixed for each part. These standards, applied to each job, fix the piece rate. In the dress and waist industry, it had been found practicable, for the purpose of fixing piece rates, to divide the garment into parts. The board of arbitration has now determined that this system shall be applied *throughout* the industry, so far as it can be made workable. The importance of this change in reducing the haggling process to a minimum cannot be overestimated. When the price committee and the employer come now to negotiate, controversy will be narrowed down to one particular part of the garment, and this particular part, if still in controversy and unsettled, will be submitted to the *test shop*. I do not believe anyone has any hope of complete standardization of piece rates in the industry. The variations in each factory are so great, the differences in shop efficiency so manifold, that the same rate could not be applied to the same garment in every shop. The method and processes of manufacture and the condition of operation must be taken into account. But, as the result of this innovation, certain processes will be standardized for the purpose of fixing piece rates.

There remains neither time nor space to consider other features of the new protocol, such as the registration and regulation of apprentices throughout the industry, the pay for overtime work,

for piece workers, the awards of increases, the change in holidays, the limitations of overtime, the equal distribution of work, the registration of outside shops, or the rules defining the "preferential union" shop. These matters must be treated separately and upon another occasion.

The big problems confronting both parties, however, have found here new formulations and new remedies. These big problems, as I have stated them, relate to:

- (a) Efficiency in the shop
- (b) Discipline in the shop
- (c) The repression of shop strikes
- (d) The elimination of unfair competition
- (e) The less wasteful method of settlement of piece rates

The revised protocol in the dress and waist industry will justify careful study by all who are interested in the *rational* method of solving industrial difficulties arising from day to day in concededly one of the most complex of complex industries. Whether or not the methods are perfect, time only will tell. It does, however, represent an honest, earnest effort to solve highly difficult industrial problems. Of one thing we can be certain. These new methods are less wasteful than the methods of anarchy and lawlessness, however defective they may prove to be in the light of actual experience.

EXPERIENCE OF HART, SCHAFFNER AND MARX WITH COLLECTIVE BARGAINING

BY EARL DEAN HOWARD,

Director of Labor for Hart, Schaffner and Marx; Professor of Economics,
Northwestern University.

On May 1, 1916, Hart, Schaffner and Marx renewed their agreement with their employes for another period of three years. There has been very little change in the terms of the agreement, the principal provisions being the increase of wages of approximately 10 per cent, due to the changed conditions in the market of labor. The hours of labor were reduced from fifty-two to forty-nine per week. This agreement has already been in existence for five years and has received the consideration of the Federal Bureau of Labor, the Federal Industrial Relations Commission and many manufacturers in various industries.

Many manufacturers have already come to the conclusion that there has been a great change in conditions, and that to meet these conditions they must change their methods. Regardless of what their theories as to labor unions and industrial democracy may be, they realize that it is a condition and not a theory that confronts them. To such persons a true statement of the result of any experiment with new methods of dealing with employes is of tremendous interest.

The Hart, Schaffner and Marx principle of dealing with labor is not a patent medicine which can be applied under any and all conditions. Rather, it is an attitude of mind and faith in certain principles of right dealing which once were regarded as a matter of faith, but which experience has demonstrated to be sound and profitable.

After a prolonged and costly strike in 1910, which came as a great surprise to this company, they accepted the principle that the good-will of the employes was as necessary and desirable as the good-will of customers, and that henceforth every effort should be made to cultivate this valuable asset. Accordingly, a new department was created which should have charge of all the relations of

the company with its employees, and nothing should be done which affected their interests without the consideration of this department. A very brief agreement for arbitration had been signed with representatives of the employees. After the decision of the Board of Arbitration was reached concerning the wages and hours and certain matters of demands, it was decided to continue the board and make it part of the permanent scheme for adjusting complaints.

X The plan is a form of representative government, neither an autocracy nor a pure democracy; it avoids the domination either of a monarch or a mob. All parties whose personal interests are involved in the business submit themselves to the rule of reason, yielding up all arbitrary authority which conflicts with the principle of right dealing to which all have promised allegiance. Rules, based on the highest concept of economic justice deliberately thought out by men whose judgment at the time is not blurred by personal interest, are considered superior to the personal judgment of a general manager or a business agent. The ideas of democracy given out by our schools and universities, by press and platform, are being absorbed by workers and being applied by them to their own situation. If representative government is good in politics, why not in industry which touches their interests so much more intimately? This is the reason for the restless clamor which underlies the incessant demand of labor for recognition. And that is the demand we have endeavored to meet in the Hart, Schaffner and Marx agreement.

Government is nothing more than an effort to remove conflicting interests from the arena of brute struggle, and to submit them to some rational and disinterested agency for adjustment. Whether the agency be a court or a legislative body it still represents a common or public interest as against the individual interest of claimants or contestants.

Experience has shown many times in situations where a conflict of interest appeared inevitable that a plan could be devised whereby the interests of both parties might be served without loss to either. It happens more frequently than would naturally be supposed that one or both parties are mistaken as to their own best interests, so that the solution of some difficulties is often much easier than appears at first.

Most industrial conflicts, like the present European War, involve losses to all concerned all out of proportion to the value of the interests at stake. Therefore, any settlement whatever of a dispute is likely to be better than open and continuous disagreement, breeding resentment, hatred, fear and violence. When a disputed point is once settled, especially by an authority respected by all, it is not difficult to adjust one's interests to that condition.

Employers are seldom interested in labor agreements and similar matters until a strike or some labor troubles force them to consider some change or amendment to their system of management. When the crisis comes and immediate decision is required, they find themselves to be led or forced into an agreement entailing serious sacrifices and tolerable only because it keeps the business going.

Labor leaders, on the other hand, are usually experts in these matters up to the limit of their ability and intelligence. This is especially true in the garment trades at the present time. The protocols and other types of agreements in the eastern markets have educated a considerable group of leaders in the science of industrial government. In sheer self-defense the employers are therefore compelled to inform themselves on this subject.

Under the original Hart, Schaffner and Marx agreement in 1911, an arbitrator was chosen by each side: Mr. Clarence Darrow by the employes, and Mr. Carl Meyer by the employers. Failing to secure a third member of the board, the two met together with representatives of both sides, and were able to negotiate successfully a two years' agreement. This provided for an open shop, recognized and made compulsory the maintenance of a grievance department such as had already been organized, granted a horizontal increase of wages of 10 per cent to all employes in the tailor shops, and specified 50 per cent extra pay for overtime work. There was no specific recognition of the union. The Board of Arbitration was to continue during the agreement, and to adjust all grievances referred to it.

A complaint department was organized providing a system by which any person feeling aggrieved might have an opportunity to present his complaint and have it heard and carefully attended to. Thus was reestablished the lost personal contact between the proprietors of the business and the employes. There are now so many avenues through which complaints may be made without

detriment to the complainant that the company may feel quite sure that no undiscovered abuses can exist.

The next step which has proved to be of vital importance was the centralizing of all discipline. The foremen and superintendents, who formerly were authorized to maintain discipline, were relieved of this responsibility, and it was assumed by the manager of the labor department. Whenever there is any delinquency the offender is suspended from his position and given a memorandum for immediate presentation to the discipline officer who is able to dispose of the matter in an impartial manner with an eye single to the welfare of the whole organization. There is a growing tendency at present for many matters of discipline to be referred to the workers' organization, thus giving opportunity for experience in self-discipline.

Leaders among the workers soon appeared, who began to command the respect and confidence of the company. Mr. Sidney Hillman, a young Russian Jew, exhibited such tact and patience, and such good judgment and administrative capacity, that he soon won a personal recognition which later developed into a recognition of the organizations he represented. Three years later, after having risen through all the responsible local union officers, he became general president of the Amalgamated Clothing Workers of America.

After a year it became apparent that a Board of Arbitration composed of two lawyers unfamiliar with the technical details of tailoring, could not possibly hear satisfactorily all the cases which the workers desired to have adjusted by the highest authority. It was natural that among the eight thousand people taken on after the strike to rush out the delayed work some should prove incompetent. It was also natural that these should be especially active in the union, and, in case of discharge, should clamor for its protection, claiming discrimination on account of their union membership.

Such cases were difficult to adjust, and, by mutual agreement, another adjusting body was organized, called the Trade Board, the members of which were foremen representing the company and union employes representing the people. Mr. James Mullenbach, then serving as acting superintendent of the United Charities of Chicago, was selected as chairman. This board was created to

hear all unadjusted and technical cases, and to adjust piecework prices whenever changes were required (collective bargaining). Appeal might be taken to the Board of Arbitration. Deputies were chosen by each side to carry on the business of the Trade Board, and to gradually assume charge of all the relations of the two parties.

The principal kind of grievances which come up are of course with reference to piecework prices, and these are all settled by the special committee of the Trade Board; other matters concern discipline, delinquencies in workmanship, distribution of work among the pieceworkers, salaries of week workers, complaints of overcrowded sections, claims of mistreatment and discrimination by the foremen, etc. At the beginning the sittings were numerous and prolonged, but gradually the decisions became precedents, and the deputies were able to adjust many cases on this basis without recourse to the Trade Board. The complaints come so informally that it is difficult to state what proportion are settled without reference to the board, but I should say that 75 per cent are. Of the 25 per cent which go to the Trade Board, probably one out of ten or fifteen are appealed to the Board of Arbitration. Such an appeal is taken only when some principle seems to be involved which has hitherto been unsettled. Fourteen cases in all were appealed to the Board of Arbitration the first year, and these cases necessitated choosing a third arbitrator, Mr. J. E. Williams, of Streator, Illinois.

The two-year term of the agreement expired on April 1, 1913. The unions, feeling that they could not maintain their efficiency under the open shop agreement on account of the disposition of a great number of people to enjoy the benefits without contributing to the support of the system, demanded a strictly union shop. The company felt that the time was not yet ripe for this step, and refused to negotiate a new agreement upon that basis. The conferences, which had been held almost continuously, were abandoned about two weeks before the end of the agreement.

The two chief deputies and arbitrator Williams did not lose faith in the system which they had so laboriously built up. They realized that, with the general feeling of good faith on both sides, the right way to avoid an open break existed and could be discovered. They frankly recognized the impelling motives of each party, the need for efficiency of production on the part of the company, and the need for sufficient strength on the part of the union to make

itself effective in protecting the worker. Without neglecting either of these interests, they produced an agreement, the central feature of which was the preferential shop. This was so devised as not to interfere with the productive efficiency of the shop, while it created an inducement for the employes to become members of the union. It was calculated to stimulate the unionization of the shops as rapidly as the people were ready for it. Most of the other details of an agreement were left for the decision of the Board of Arbitration, which, by this time, possesses the unlimited confidence of all concerned.

During this five-year experiment, most of the fundamental issues which arise in the employer-employee relation have been met and adjudicated. These typical cases have revealed principles which may some day help to form an established code of governing rules for industry and supplanting the present method of competitive bargaining and conflicts settled by economic strength.

The right to discharge rests with the company absolutely. In cases of discharge, the burden of proof is upon the employer to show that such discharge is necessary for the welfare of the organization. He must show that any alternative action involving less hardship on the individual is inadequate. The Trade Board and Board of Arbitration may reverse decisions of the company whenever it is shown that there was not sufficient cause for discharge. As a rule, men who are delinquent in workmanship are given another chance by the Trade Board. The board for a long while was very weak with reference to discharges on account of striking, but recently they have taken a much firmer attitude. I refer here to the small stoppages of work over disputed questions. I venture to say that about half the discharges made by the company are substantiated by the Trade Board; of course, it will be understood that some of these discharges are made with the expectation that they will be reversed, but the disciplinary effect of the whole procedure is very good in maintaining discipline. The company as a general rule does not object to the Trade Board reinstating discharged people if it gives them a warning and makes it clear that any future offense will lead to positive discharge.

So long as there is an adequate supply of labor available in the skilled trades, the employer must not introduce an unreasonable number of apprentices into the trade.

The ordinary concept of the employer is that labor is a commodity purchasable as other commodities. He strives to get as much as he can as cheaply as possible. The job or opportunity to work is his private property and the workman has no claim upon it. The new principle gives the worker a right to his job which can be defeated only by his own misconduct. The job is the source of livelihood to the worker exactly as his capital is the source of livelihood to the capitalist. In the slack season whatever work there is shall be divided among all as far as practicable.

Managers who are directly responsible for the efficiency of the shop should not be burdened with the responsibilities of discipline. This function is one of great delicacy. If badly or unskillfully performed it is a fruitful source of antagonisms and personal feelings, which is like sand in a complicated machine. If, however, it is handled with judgment and resourcefulness by an official who is detached from an immediate interest in the operation and who can look forward to ultimate results, the function presents great opportunities for gaining the respect and good-will of the employees. Discipline cases afford the finest opportunities for educational work, both with worker and foreman.

So long as the offending employe is to be retained in the factory, any disciplinary penalty must be corrective and no more severe than is necessary to accomplish the best results for all concerned. Most offenders are victims of wrong ideals or mental deficiencies, the remedy for which is not punishment but help and instruction. Delinquencies in management can frequently be discovered and the manager or other executive may need the services of the expert discipline officer quite as much as the original offender. The efficiency of the discipline officer should be measured by the proportion of ex-offenders who have ultimately become competent and loyal friends of the company. It is his prime duty to prevent and remove from the minds of the people all sense of injustice in their relations with the employer, which is the fundamental cause of the bitterest industrial conflicts.

The great defect in autocratic governments is the lack of adequate and intelligent criticism. Automatically-governed business enterprises suffer from the absence of their wholesome check. Organized employes represented by spokesmen who are protected in that function, together with a labor department responsible for

the good-will and welfare of the employes, constitute a critical check on bad management and the source of valuable suggestion for more efficient management. Pieceworkers, especially, are vitally affected in their earnings by the quality and efficiency of the management. Subordinate executives in the factory may conceal this inefficiency from their superior officers for a long time, but a system of free complaints makes this impossible.

The primary tribunals or Trade Board should settle finally all disputes as to facts; appeals should be taken only when disputed standards are involved. Each case before the Board of Arbitration is an opportunity to establish one or more standards. Thus, unless the industry is one of great changes, the board will find the need for its services grow gradually less as both parties learn to be governed by standards. The immense value to an industry of established standards should reconcile the parties to the time consumed in deciding some comparatively unimportant case which happens to afford opportunity for creating a standard. The board in such cases should get expert and technical testimony from all sources through witnesses and committees of investigation, so that the work is done once for all.

We are so habituated to the idea of labor as a purchased commodity or service, that it seems to us quite natural for the price of it to be determined by the law of supply and demand through the bargaining process. When employes are unorganized, they are unable to bargain with a large employer on anything like equal terms; when they are organized, the bargaining may take the form of industrial warfare. Bargaining cannot be equitable and fair unless either party has the right to withhold what he is offering to the other. This principle is so true that the courts and legislatures have been forced to legalize strikes and picketing, notwithstanding the tendency of these measures to subvert law and order and to jeopardize the right of person and property.

In the system here described, the rate of wages and piecework prices existing at the beginning of the agreement was accepted as the basis. Certain horizontal advances were granted to prevail during the term of the agreement. At the end of that period the whole question is reopened. If both parties agree to arbitrate this major question as they do all others, the burden is thrown upon the board of arbitration of finding some governing principle from which a rational decision may be derived.

THE ARBITRATION PLAN OF WILLIAM FILENE'S SONS COMPANY

By JOSEPH H. WILLITS, PH.D.,

Wharton School of Finance and Commerce, University of Pennsylvania.

Thoughtful industrial managers are beginning to appreciate what havoc the fear of loss of a job works in the mind of an employe. An ever-present sense of impending calamity spells lack of hope, ambition, interest and efficiency. Two of the chief of these first-rate creators of doom are the fear of loss through the ending of the job and the fear of dismissal through the unjust and arbitrary act of an executive. Significant attention is being given to the lessening of these two forms of this evil. The firm of William Filene's Sons Company has, by the establishment of their arbitration agreement, taken a significant step in preventing arbitrary dismissal of employes.

An Arbitration Board of twelve members is elected semi-annually by secret ballot by *all the employes* of the store. In practice, nearly all of the members of this board are from the rank and file, only two or three being minor executives. Any employe of the store may bring a complaint before the board, covering such cases in which he or she "has reason to question the justice of a decision by anyone in a higher position or by the corporation or by a Filene Coöperative Association Committee or between the employes when the difference is in relation to store matters."

Some of the other rules follow:

The decision of the board is final for all cases arising within its jurisdiction.

In cases of dismissal a two-thirds vote of the members of the Arbitration Board present at the time the case is heard shall be an order on the store manager for reinstatement, provided that a majority of the full board be present.

In all the other cases a majority vote of the entire board will decide the case and in cases of salary reduction shall be an order for refund.

Both parties in the case may be present throughout the taking of evidence.

The appellant or the defendant may choose a person to help present his case before the board or to act as his representative.

After hearing witnesses called by both appellant and defendant, and such other witnesses as it may summon, the board makes up its decision.

The test of the value of any such plan as this must lie in the answer to the question, "How does it work?" No matter how correct it may be in its theoretical provisions, it can be of little value unless the attitude of the firm and the employees is one of approval. This arbitration system has been in operation for fifteen years. At first the more extreme radicals of the employees were elected to the board. Since this necessarily resulted, at times, in decisions that were not only unfair to the firm, but also unfair to the employees, the tendency has developed among the employee-voters to elect more judicially minded employees to membership on the board. The practice of electing such persons and reelecting them after they have been discovered has led to an attitude on the part of the board which is fair to the firm as well as to the individual employee. Accordingly, about 55 per cent of the decisions favor the employee, and 45 per cent favor the employer. One of the executives of the employment department reports that "in 99 per cent of the cases in which the decision is against us, we are wrong."

The importance of the work of the board, however, lies less in the decisions that are made than in the decisions and disputes which are avoided. The executive who dismisses an employee, for example, knows that his act must satisfy the sense of fairness of a group representing the *employees alone*. Accordingly, he refrains from taking an action which he knows will be reversed. Largely for this reason, only a few cases come before the board,—only two in the four-months' period from June to September, 1916.

The effect of this situation is to make the executive think carefully and try to settle difficulties "out of court." Rather than go before the board and have a poor case disclosed, he will perhaps have a conference with the employment department, the store manager, the employee and the latter's representative who is often the Executive Secretary of the Employees' Association. If it develops in this conference that the employee is probably in the right or that there is some justice on both sides which permits of fair compromise with good results, the case is quite likely to be settled then and there to the satisfaction of both sides, and an arbitration case avoided. This can only be done, however, if both sides do get satisfaction in this manner. This pressure tends to create coöperation in this way instead of working against it and for friction.

Although the contrary might be assumed, this practice of subjecting the decisions of a departmental executive to a higher review involves, in practice, no undermining of the authority of that executive over his people. In a recent meeting of the executives of the store, a question was raised asking which executives had had employes reinstated over their heads by the board. Nearly all of them had had this experience; but, until the cases were brought to their attention none of them *recalled* the experience, so harmoniously had the reinstated employe been assimilated into the organization.

The definite attitude of the employes is necessarily somewhat more difficult to obtain. It is the universal attitude of the employes that the board is a court of last resort, to be used only in case there is real justice in a claim. Very few of them want to come before the board, unless they have a real grievance and most employes will not appeal for arbitration, frequently preferring to keep their grievance to themselves. Consequently, petty claims are not brought up and an employe generally has a really just claim of some sort before he will air it before the board. In the minds of the employes, however, there exists always this potential court of appeal, whose machinery is sufficiently simple to make it practicably available.

Surely, here is a step in industrial democracy which is worthy of more extensive attention and investigation.

THE METHODS OF MAKING LOCAL AGREEMENTS EMPLOYED BY THE PATTERN MAKER'S ASSO- CIATION OF CHICAGO¹

BY F. S. DEIBLER,
Northwestern University.

The methods of bargaining employed by the Pattern Makers' Association of Chicago are in many respects unique in the field of trade union experience. It is customary to look upon a trade union as an association that exists for the purpose of securing an agreement with employers through collective action. The terms of such agreements are ordinarily reduced to a written contract which govern the conditions of service, in respect to hours, wages, etc., for a specified period of time.

While the Pattern Makers' Association has a scale, all contracts are made with individual employers and the agreements are always verbal. The officials of the Chicago association claim that they have had but one strike in fourteen years and that this dispute was in reality a lockout rather than a strike. The strength of this organization lies in three things:

1. Pattern making is highly skilled work.
2. The small number of men ordinarily employed in a shop. Four or five men is the usual number found in a shop, although some shops in the city employ as many as sixteen or eighteen men.² The smaller number of men usually involved in a grievance renders the financial strain of maintaining these men till the dispute is adjusted less severe than for most unions. The largest jobbing shop in Chicago is one that the union itself assisted in establishing. The importance of this shop to the successful operation of the methods employed by this union will be described later.
3. Because the pattern makers are a small, compact group of skilled workmen, organization can be made more easily effective. The officers of the union estimate that there are about five hundred

¹ The information presented in this article was collected in connection with certain investigations made by the author for the United States Commission on Industrial Relations.

² According to a statement by the local officers, the Allis-Chalmers' plant at Milwaukee employs about 200 pattern makers, which probably makes this the largest pattern-making plant in the country.

pattern makers in the city of Chicago, and that 95 per cent of these are members of the union. On account of these conditions, and by means of apprenticeship and other rules, the union is able to maintain a more complete control over the supply of labor and the conditions of employment than is possible by many larger organizations.

In negotiating with employers, the local association exercises a large degree of freedom. The laws of the pattern makers' league, the national union in this industry, do set some limits on the action of local associations affiliated with the national union, but these rules do not place a very strict limitation on local activity. The most important rules of the league, are those governing apprenticeship,³ those prohibiting members from working on piece, premium, bonus, or contract work,⁴ and a declaration in opposition to strikes, and favorable to arbitration and conciliation as the best methods of adjusting grievances.⁵ The rule governing the procedure in the case of a grievance is as follows: the local association must, at a specially called meeting, decide by a two-thirds vote of the members present, to lay their case before the employers involved. The association must then notify the general president, who, either personally, or some representative of the league delegated by him, proceeds to the scene of the controversy and endeavors in conjunction with the local executive committee, to effect a settlement. Failing in this, a local may resort to a strike.⁶ This rule of the league is of slight consequence as a means of restricting independent local action. The only advantage that would accrue to the local by complying with the rule would be the strike benefits that the members would receive from the funds of the national body. As the number of members involved in any one dispute is so small, this rule can have little effect on the determination of local policy, even in times of a dispute. The local could carry the financial burden of a dispute, in case it saw fit to do so. However, as stated above, it is contrary to the policy of the Chicago association to engage in strikes. The league has another rule prohibiting overtime, "except in cases of absolute necessity,"⁷ which means prac-

³ Const. Pattern Makers' League (1913), p. 19.

⁴ *Ibid.* p. 22.

⁵ *Ibid.* p. 7.

⁶ *Ibid.* p. 17.

⁷ *Ibid.* p. 22.

tically nothing. There are no restrictions on local action in respect to wages and hours.

The wage scale of the Chicago Pattern Makers' Association varies for different kinds of shops. Two principal kinds of shops employ pattern makers. First, the general manufacturing plant that maintains its own pattern shop. Some of these shops in Chicago may employ only two or three men, while others may have as many as fourteen to sixteen men. Second, the jobbing houses. Many manufacturing plants find it more economical to let contracts for their patterns, rather than to attempt to run a shop of their own. The wage scale in the general manufacturing plants is fifty cents per hour. In some of the jobbing shops the scale is as high as sixty cents per hour.⁸

Lack of uniformity is found likewise in regard to the hours of work. Some plants work as few as eight hours per day, while others work eight and one-half and some as many as nine hours per day. The officers of the union stated that the pattern making department of the Illinois Steel plant works ten hours per day, but that this is a non-union shop and the conditions here are unusual.

The Chicago Pattern Makers' Association has a peculiar method of controlling the wage scale and conditions of employment. For many years when new demands were made, the men were told by the employers that the business could not stand the added expense. The union officers had no positive evidence as to the accuracy of this statement. At the present time, however, the officials of the union can know with reasonable accuracy what the cost of a pattern-making department should be to the employer. This information is obtained through the experience that the union has gained from its relations with the American Pattern and Model Company.

This company is incorporated under the laws of Illinois, and has been in operation now for a period of six years. The stockholders are all members of the Chicago Pattern Makers' Association. The company was formed by a subscription of shares on the following terms: the shares were issued in denominations of \$50. Any member of the Pattern Makers' Association desiring to take out a share of stock in the company could do so by the payment of \$5 down, and \$1 per week until the face value of the share had been paid in. In

⁸ This scale does not include the wages paid in the American Pattern and Model Company's shop, which is owned by members of the union.

this way the plant became a coöperative undertaking, owned and managed by members of the Pattern Makers' Association. This company is in direct competition with all other pattern-making establishments in Chicago. In fact, it is claimed that this is the largest jobbing plant in the city, as it employs between thirty and forty men. The shop is run with strictly union labor, which is paid the best wages, and is given the shortest hours possible. The latest safety devices are used, and the general conditions of employment are as satisfactory as they can be made. The wage scale in this shop is 62½ and 65 cents per hour, according to the grade of work, for an eight-hour day, with a half holiday on Saturdays. It is claimed that both wages and hours are more favorable than in any other shop in the city.⁹

While this shop is a private corporation, the peculiar relation of the union to its management gives the union a decided advantage in its bargaining with employers in other shops throughout the city. These advantages may be summarized as follows:

1. Reasonably accurate information concerning manufacturing can be obtained. Should an employer state that he could not afford to meet the demands of the men, the officers of the union would be in a position to know whether or not the employer was making a correct statement.

2. Should the employer refuse to accede to the demands, the men could be put to work in the shop of the American Pattern and Model Company. From the nature of this trade, it frequently happens that these same journeymen can go to the firm for whom they have been working, and secure a contract for the pattern work of this plant. The firm has known the work of this journeyman, and, if the firm was satisfied, very often the work will follow the journeyman. In this way, the journeymen may, in case of a dispute, actually increase the work of the American Pattern and Model Company. While it is true that the space controlled by this firm is limited, the officials of the union point to the possibility, although it has never been done, of renting additional space and of putting the men to work, if conditions in the industry warranted it. Even if the men were not put to work, they could be put on strike benefits. Whichever way the matter is handled, the effect on the employer is the same, for since the union has so large control over the skilled

⁹ The American Pattern and Model Company has constructed a new building at a cost of \$20,000. This new building has greatly increased the space and efficiency of its work. No dividends have been declared to date, as all of the earnings have been put back into the plant and equipment.

pattern makers, the employer is practically forced to get any additional workmen through the union. New men will not be furnished except at the rates demanded. This explains why it is not necessary for the pattern makers to strike.

The foregoing method can be used even though there is no dispute. Whenever the union decides that any particular shop is paying less, or working longer hours, than it should, the men may be withdrawn and put to work in their own shop. When the employer calls for more men, he is informed that the conditions as to wages or hours in his shop are not satisfactory. He is told that if he expects to hold his men, it will be necessary to pay a little more or to give his men better conditions. In this way, the union has used its relations with the American Pattern and Model Company to improve working conditions for its members.

The relation of the union to this company gives the union a line upon another problem in the industry. For a long time, one of the principal menaces to standard conditions was the small pattern maker, who would underbid the union scale in order to get a job. Having secured the contract he would work long hours, and, if he required help on the job, he would pay the lowest rates. More because of the hours worked than the wages paid, this small pattern maker was a disturbing factor to the industry. Two things are accomplished through the American Pattern and Model Company which are very useful to the union in its attempts to deal with this problem. Some of these small jobbers are members of the union. Frequently this fact is found out through the company, in this way. The company has submitted a bid on a job and fails to secure it. Being an interested party the officials of the company make inquiries as to who obtained the work. Thus, members of the Pattern Makers' Association, who are inclined to break down union standards, may be detected, and thereafter disciplined. In the second place, the jobbers may undertake to cut prices for jobbing work, with the view of underbidding the American Pattern and Model Company and thus driving the company out of business. However, the company has the advantage in competition of this character, because it does not have to earn a profit. The stockholders are more interested in continuous employment than in the dividends declared on their shares. Therefore, this company can afford to take work at cost of production and continue to operate

indefinitely on that basis. Besides, the small jobber cannot handle the larger orders, because he is not equipped either as to space, or tools, for handling the larger work, therefore, this kind of competition is restricted to the smaller jobs. The power of the union through its connections with this company, whether considered in its relation to the small jobbing competitor, or to the employer unwilling to pay the scale, is in a large measure a potential force. How extensively it is used depends upon the urgency of the case.

In this unique way, a small compact group of skilled workmen have organized and carry on regular trade union functions. Agreements with the employer, while conforming to the normal representative methods through union officials, are more completely individualized than is usual in collective trade union action. The agreement is always verbal, and because of the character of the work, it is frequently in respect to a particular man. It may happen that only a very few men are capable of making the kind of pattern specified. But whether this be the case or not, the officer of the union is called upon to furnish a specified number of men who are capable of doing a definite kind of work. Through its connections with the American Pattern and Model Company the union holds a strategic advantage in its endeavors to protect and improve working conditions, that is possessed by few, if any, other unions in the country. No attempt is here made to argue that the experience of this union can be extended successfully to other organizations. The information is presented to show what different methods may be employed by trade unions as aids in collective bargaining.

SHALL FREE COLLECTIVE BARGAINING BE MAINTAINED?

BY CARL H. MOTE,
Indianapolis, Indiana.

During the years I was enrolled as a student in college I was a member of an intercollegiate debate team which had the affirmative of the proposition, "The power of the federal government should be extended over corporations engaged in interstate commerce." It was not until long after the debate was held and my team had been beaten that I came to realize we had overlooked our very strongest argument, namely: That the power of Congress *had already been* extended over corporations engaged in interstate commerce and that the act creating the Interstate Commerce Commission by which this was definitely accomplished was a matter of political and social necessity—an evolution of our industrial society. I am not going to overlook a similar opportunity to call attention at the outset of this paper to the spread of collective bargaining during the past fifty years and to cite this unbroken growth of its popularity as a very plausible consequence of its inherent merit—as a tangible reason why collective bargaining ought to be maintained.

As a parallel of the case I have in hand, knowing that people must eat, I might as well be charged with the task of contending for the maintenance of bake-shops, or, knowing they are possessed with religious and educational instincts, of contending for the maintenance of churches and schools. Collective bargaining is based upon the group instincts of man but in this age it is also a normal product of our industrial society which, itself, tends to promote group or class consciousness.

Free collective bargaining means undoubtedly that the differences between capital and labor, employer and employe, shall be solved, if solved at all, by those agencies which capital and labor, employer and employe, working together and alone, are able to provide. In a practical sense, *free* collective bargaining implies the use of the *trade agreement* and an unbroken and unending effort

at organization until there is a complete federation of all workers joined together for a common purpose. We may well doubt whether complete amalgamation of the workers is attainable and it is best perhaps to consider collective bargaining in terms of present or proximate limitations. We have to ask ourselves whether the success of collective bargaining as applied approximately to 15 per cent of the workers has fully justified itself.

As a matter of fact, *free* collective bargaining is not now being maintained to any appreciable extent. Collective bargaining cannot be said to be wholly *free* where state conciliation and arbitration boards are accessible to parties when collective bargaining has failed, or are likely to intervene on their own motion when differences have reached the acute state. It cannot be said, in the circumstances, that collective bargaining is *free* when hours of labor, working conditions and even wages are fixed by law. What we mean rather is collective bargaining, free from unreasonable legal restraints and reasonably free from the operation of other devices in the same field.

We have hours-of-service laws in most of the states, federal hours-of-service acts, a great body of laws, federal and state, governing working conditions, and finally minimum wage laws in seventeen or eighteen states applying to women and minors. This mass of legislation may be regarded as supplementary to the achievements of collective bargaining or as evidence of a distinct and separate movement in the direction of greater state interference with labor and industry. We may regard the tendency to fix wages, hours and conditions of service by law as a supplemental phase of collective bargaining or as an alternative. In the measurement of any scheme we have to consider its operation from a threefold point of view, namely: the elevation of labor, the orderly development of industry and the peace of society. It is so with collective bargaining.

Turning to the realm of mere theories that fail to work, we have one setting forth an ideal condition in which capital and labor would coöperate for their mutual benefit. This theory appears feasible enough until we remember that capital's wonted policy is to pay out in wages precisely what is demanded to maintain production at a given rate, and no more; or that labor's wonted policy is to collect the greatest wage obtainable for a given service. It is because of the conflict that arises at this point of difference

that employes organize to do collectively what experience has proved they cannot do individually. It is because of this point of difference that collective bargaining has become an established fact in many industries.

In the realm of mere theories, we have another which takes into the assumed partnership between capital and labor, a third which, it is maintained, is most potent of all—the public. “It is therefore necessary,” says one writer, “for employers to join with employers, for employes to join with employes, and these two with the people to form a triumvirate—and then get busy and take the ‘dust’ out of industry.”

Actually, this statement is not far from a practical solution of the problem, although the writer failing to specify just what he expects the “people” to do, one is left to speculate with regard to the exact nature of their part. The truth is that the “people,” except as they have been spurred on by the proponents of trade unionism, have not accomplished anything of great moment or figured prominently as a solving factor. The “people” make a great fuss when the street cars stop running. They denounce Mother Jones or the railroads or both, when coal reaches a prohibitive price and sneer at the labor picket because he does not seem to be as busy as the “people” think they are. Otherwise, we have to offer on behalf of the “people” the famous Adamson law, passed during the last session of Congress with the avowed purpose of avoiding a strike but in the light of recent developments rather of postponing it until after a presidential election. This law, the only purpose of which seems to have been a temporary political advantage sought by the party in power, is promised a legal attack equal to the stoning of Achan.

Nevertheless, a wiser and more vigilant part in the solution of our industrial problems—in the elevation of labor, promotion of industrial progress and the establishment of peace—certainly must rest with the “people,” if we are to proceed satisfactorily.

From the very nature of the service performed, collective bargaining cannot prove very satisfactory as a method of adjusting the differences between capital and labor in the field of public utilities. Here regular, prompt and adequate service is of such great importance to *all* the people that no lapse due to strikes or lockouts ought to be allowed. Of course, the employes of a

street car company, for instance, have a right to strike when the operating executives of the company decline to hear the grievances of the men from their representative committees or to submit differences that cannot be adjusted otherwise to arbitration. Likewise, the operating executives of a street car company have a right to deny the demands of their employees when the latter refuse to submit persistent differences to arbitration, as the railroad brotherhoods did prior to the enactment of the Adamson law. It is at these points especially that the "people" should exercise their inherent power—power that exists by virtue of the character of enterprise concerned. The "people" ought to intervene for their own general good and they ought to be possessed with machinery adequate to effect an adjudication.

Not that the state will ever be able to compel men to work but that in extreme cases when its awards have been made, the employes of a public utility may have the option of accepting the award or of having their places filled by other men. Undoubtedly, the state would appear to better advantage in using its police power to enforce its own award or order than it does now when the police power is invoked to protect "strike breakers" employed by a privately-owned enterprise even though the public convenience may be involved in both cases.

Fortunately, we already have the necessary machinery for the adjudication of differences between employer and employe in the field of public utilities. The federal government maintains the Interstate Commerce Commission and practically all the states maintain public service commissions. In their respective jurisdictions, these bodies already have administrative power approximating that of wage boards. They already are empowered to fix reasonable rates for service, to determine a standard of service and to supervise and authorize stock and bond issues. Wages, hours and conditions of service of the men employed in the operation of a public utility are so closely related to the element of service from the consumer's standpoint that no regulatory body can successfully control the latter without regulation of the former. Moreover, what is more logical as a corollary of the proposition that regulatory bodies in the field of public utilities empowered to supervise rates, service, and capital also should supervise wages, which enter into these other elements?

Eighteen states already maintain minimum wage boards with jurisdiction over the wages of women and minors and this further grant of power to the Interstate Commerce Commission and to the public service commissions of the states ought to be upheld under our present constitutions on practically the same grounds as minimum wage laws.

Outside the field of public utilities, it does not appear that we shall be able to find any method of adjudicating the differences between employer and employe equal to collective bargaining. Within the field of public utilities, there ought to be as little interference on the part of the state with employer and employe as we may find consistent with the proposition that no lapse of service is to be tolerated.

There can be no doubt that the fight of the trade unions of this country to establish the principle and spread the practice of collective bargaining properly deserves to rank as the most potent influence extant for shorter hours, higher wages and better working conditions. Progress in those trades where collective bargaining has become an established fact has been especially marked.

Many other influences, it is true, have functioned to the same end but the trade union movement stands out conspicuously as greatest of all. It is upon the principle of collective bargaining that the trade union movement rests in this country and we shall, therefore, have to bear in mind that the achievements of the one are achievements of the other; that the history of the one is the history of the other. We shall have to bear in mind also that the trade unions with collective bargaining as their *shibboleth* "have had to fight the lawmakers and the judges, the police power and those who usurped police power," and that "nothing has been won without a struggle."

In behalf of collective bargaining, it may be urged that three million American workmen, more or less, by virtue of their organization for that purpose, have been able to maintain a wage scale far above that of the unorganized trades; that the evils of child and woman labor have been effectively checked or eradicated; that hygienic, sanitary and safety laws have been wrung, one by one, from unwilling legislative bodies; that the standard of intelligence and of enlightened citizenship within the organized trades has risen year by year; that the membership, being trained to service in groups,

has learned the lesson of obedience, discipline and team work; and finally that the unorganized trades, the 85 per cent of American workmen, have benefited either directly or indirectly by what we may call the "tyranny of the minority." So far as the influence of collective bargaining is concerned as a factor for enlightened citizenship, for obtaining comfortable wages and sufficient leisure for recreation, it stands paramount in the field of industry.

The trade union movement may have failed to develop a sufficient number of skilled workmen for healthy industrial progress because of the collapse of the apprenticeship system, and therefore collective bargaining might be said to be responsible for having retarded our industrial development. The facts, however, are that our failure to train skilled workmen is due more to the direction of our industrial development, to the advent of machine production and of extreme specialization than anything else. Trade unionists frankly admit the failure of the apprentice system and in their active support of the movement for industrial education are doing everything possible to overcome what is being lost in the passing of apprenticeship.

Australian and New Zealand experiments—experiments carried on in an industrial society far less complex than our own—show conclusively that compulsory arbitration is merely a name; that the state in extreme crises is unable to compel men to work when otherwise disposed; that actually the device is a failure when applied to cases where it is most needed. Compulsory conciliation and arbitration "does not compel, it does not conciliate, neither does it arbitrate. Like the peddler's razor, it was made to sell and not to shave." Compulsory arbitration is opposed by organized labor and by organized and unorganized employers. In the general field of industry it will not operate because men cannot be compelled to work against their will and besides it is an instrument of doubtful merit even though it might be made effective.

See Compulsory investigation, a device used in Canada since 1907, where it applies to transportation, communication, mining, gas, light, water and power enterprises, is open to practically every objection to be urged against compulsory arbitration and in theory at least lacks the advantages that would flow out of compulsory arbitration, assuming that the parties to an industrial controversy could be compelled to arbitrate their differences and to abide by the

awards of a board appointed against their will. Nine years' experience with compulsory investigation in Canada shows a high percentage of failure to avert strikes as well as numerous instances where the law was disregarded altogether in calling strikes. It is quite as objectionable to organized labor as compulsory arbitration. President Wilson's program announced in connection with his recommendation of the Adamson bill, and renewed in his recent message to Congress, which includes the enactment of a law after the plan of the Canadian Industrial Disputes Investigation Act, was scarcely published in the newspapers until Mr. Gompers attacked it. Obviously, Mr. Gompers was waiting until after the election for the main assault. The Canadian law, framed obviously on the admitted principle that men cannot be made to work when they will otherwise, does, as a matter of fact, undertake to compel them to work during a certain period, pending investigation by official authority, and to that extent is open to the same objection as compulsory arbitration.

Of course, it is legally possible to fix wages, hours and working conditions directly by law, but manifestly this is an impossible task in practice and one altogether beyond the normal functions of legislative bodies. Until the enactment of the Adamson law, it was definitely understood that organized labor and the American Federation of Labor, especially, were unalterably committed to the principle of collective bargaining and unalterably opposed to all other methods of regulating wages and hours.

The 1915 convention of the American Federation of Labor defeated a resolution of socialist origin advocating direct legislation to obtain the eight-hour day and reaffirmed a resolution adopted at the 1914 convention, of directly opposite purport. In part, this resolution was as follows:

The American Federation of Labor, as in the past, again declares that the question of the regulation of wages and hours should be undertaken through trade union activity, and not to be made subjects of laws through legislative enactment. It cannot be overemphasized that the wage-earners must depend upon their economic organizations for securing a shorter work day. . . . To secure a shorter work day by any other method makes it necessary for the wage-earners to delegate to other authorities other things which vitally affect them, and which constitute a limitation upon their activities and their rights, and thus finally lessen their freedom.

It is a fact that in so far as legislative bodies assume the function of limiting hours and fixing wages, collective bargaining will have to be given up and it is in the railroad train service that collective bargaining has attained the zenith of its power. The Adamson law was badly framed and in all probability present trade agreements will be abrogated or modified to suit the railroads. Worst of all, conditions attending the passage of the Adamson act have weakened the brotherhoods before the public and in the event a strike is finally called there will be a general want of sympathy with the strikers' cause. Out of all this, however, we may hope that the Interstate Commerce Commission may be charged with complete jurisdiction over wages and hours in the railroad service, a natural and inevitable disposition of the problem.

There are strong indications that the railroad brotherhoods, who would now be violently opposed to surrendering any part of the wage-bargain function, took a step in accepting the Adamson law from which there is no returning. Having already estranged a considerable number of trainmen in an effort to coerce them into blind support of the Adamson act, the brotherhood leaders will have serious difficulty now in effecting an orderly retreat.

The railroad brotherhoods are conspicuously a non-striking organization. This is their history. It is true that they have engaged in strikes, but a strike nevertheless is the exception. Notwithstanding the seriousness of the indictment and the hesitancy with which it is brought, I am persuaded that the strike vote preceding the recent surrender to political domination by Congress and the President of the United States, was a "frozen" vote, and that the brotherhoods surrendered only because they believed it would, may I say, save their own hides? It is a regrettable fact that the brotherhood leaders were willing to practice a colossal deceit on their membership. Finally, it may be said in all fairness and justice, that they deserve what they eventually will receive, the condemnation of their own membership and of the public generally for delivering over their organization to a political party as a part of a political bargain. The condition in which the brotherhoods find themselves suggests the beginning of an attempt to handle the wage question in the field of public utilities in an altogether new way. The beginning might as well be made with the railroads doing an interstate business.

As a practical proposition, outside the field of public utilities, we have nothing that can take the place of collective bargaining, and we shall therefore have to content ourselves with whatever advantages the trade agreement offers and provide ourselves against whatever disadvantages it entails. To this end we ought to legalize fully employers' and employes' associations and to recognize them as our greatest security against destructive labor struggles. We ought to encourage associations of both groups and extend to them whatever protection the law can afford. In this event, we shall have a democratic approach to the solution of our problem and therefore a reasonably satisfactory solution because the parties most interested will have had a voice in reaching the solution.

FEDERAL ARBITRATION LEGISLATION

By L. E. HOFFMAN,

Little Rock, Arkansas.

Under the Constitution of the United States the power to regulate interstate commerce is delegated to Congress, limiting to the several states the control and regulation of commercial intercourse wholly within their respective borders. The most general common carriers transporting commerce between the states are railroads, so legislation to prevent interruption to interstate commerce may properly be confined to them.

The first noteworthy interruption to railroad communication because of contentions between carriers and their employes occurred in the historic strike of 1877. Notwithstanding considerable injury and inconvenience resulting to participants and other citizens, Congress took no official note of the fact until the act of October 1, 1888, which authorized the selection and appointment of arbitrators upon the written proposition of either party to a controversy involving interstate carriers and their employes. This act provided that one arbitrator should be chosen by the carrier, one by employes and a third should be selected by these two arbitrators representing the parties to the controversy. This board had power to administer oaths, take testimony and investigate, mediate and arbitrate. The act also empowered the President at his discretion to select two commissioners, one at least to be a resident of the state in which the controversy arose, who, with the Commissioner of Labor, would constitute a temporary commission to examine causes of the controversy, conditions accompanying it, and the best means for adjusting it. The services of such commissioners could be tendered by the President voluntarily, requested by either participant, or even applied for by the executive of the state in which the difficulty arose.

Decisions of an arbitration board, also the findings of a commission, were to be made public, but the contesting parties might elect to abide by or disregard the decision reached, since the law placed no restraint whatever upon either party. However, no

effort was ever made to utilize its arbitration feature and but one commission was created to report upon a strike—that of 1894. In view of the restricted scope of this law it was repealed when the more comprehensive statute known as the Erdman Arbitration Act was passed June 1, 1898.

The Erdman Act applied to railroads and employes actually engaged in train operation, thereby embracing conductors, brakemen, engineers, firemen, switchmen and telegraphers. It provided that whenever a controversy seriously interrupted or threatened to interrupt interstate commerce, the chairman of the Interstate Commerce Commission and the Commissioner of Labor should, as mediators, upon request of either party, or both, use their best efforts by mediation and conciliation to settle the same amicably, but if unsuccessful, they should endeavor to have the controversy arbitrated under provisions of the act. In case of arbitration, a board of three members was to be selected as follows: one member to be named by the carrier; a second by the labor organization or committee representing the employes; and a third to be chosen by these two within five days. In case of failure to select the third arbitrator in this manner, he was to be named by the mediators. As a rule the selection of the third arbitrator proved difficult, since he had to be acceptable to both sides and in several instances when chosen was unwilling, or not in position, to serve. A copy of every agreement of arbitration after its execution by the contending parties, and being duly acknowledged before a notary public or clerk of a district or circuit court of the United States, was filed with the Interstate Commerce Commission for record.

Attempts were made, but without success, to invoke the provisions of this law in 1899 and in 1906. From 1907 to 1912 inclusive, the services of the mediators were made use of more frequently. In 1910 sixteen applications—the maximum in any one year—were made to the mediators for their friendly offices. From the passage of the law to December 31, 1911, a total of forty-eight cases were handled by the mediators, of which twelve were arbitrated. In only three of these cases were the two arbitrators able to agree upon the third, thus necessitating that the two mediators select the arbitrator.

After the arbitration board had been duly appointed, the statute required them to commence their hearings within ten days and

conclude their investigation and announce the award within thirty days from the time of appointment of the third arbitrator. Pending the arbitration, the status existing immediately prior to the dispute remained unchanged, except that no employe should be compelled to perform service without his consent. Upon completion of their work the arbitrators filed their award, with all papers, proceedings and testimony, in the clerk's office of the circuit court and their finding was conclusive upon both parties, unless temporarily suspended pending disposal of exceptions filed by either party within ten days thereafter, or unless the award was set aside for error of law by the circuit court or on appeal therefrom to the circuit court of appeals, whose decision was final. The law provided that employes displeased with the award should not quit, nor employers dismiss their employes within three months after such award was made, without giving each other thirty days' notice in writing of their intention. The award remained in effect for one year after it went into practical operation, and no new arbitration upon the same subject between the parties to the original controversy could be had within the year unless the award was set aside by a court of proper jurisdiction. The law provided no penalty in case the parties involved failed to comply with the findings of an award, but there was never an instance where either party disregarded the award of an arbitration board.

Other provisions in the act were: employes individually should not be heard by arbitrators unless the complaining employes constituted a majority of that grade and class in the service of the same employer; pending the outcome of the arbitration the employer should not discharge any employes, parties thereto, without sufficient cause, nor should an organization representing the employes order, aid or abet a strike; in every incorporation under United States statutes it must be provided in the articles of incorporation, constitution, rules and by-laws that members should be ousted in case they used force or violence during strikes, lockouts or boycotts, or sought to prevent others from working through violence, threats or intimidations; individual members should not be liable for the acts, debts or obligations of such incorporations or vice versa; and further, the act made guilty of a misdemeanor subject to stated penalties, any employer, officer or agent who required an employe to agree not to become a member of any labor organization,

or who threatened loss of employment, or discriminated against any employe because he belonged to or might become a member of a labor organization, or required an employe to contribute to any fund for charitable, social or beneficial purposes, or release his employer from legal liability for personal injury by reason of benefits received from such fund beyond the proportionate benefits resulting from the employer's contribution to such fund; or who, after having discharged an employe, attempted or conspired to prevent such employe or any employe, voluntarily quitting his position, from obtaining employment. Only one provision of the law specifically referred to employes as individuals who were not members of labor organizations; all other provisions related to organized as well as unorganized labor.

Under the law the mediators had no authority to intercede in any controversy, and could do so only upon request by one of the contending parties, provided the other agreed to accept intervention. Therefore, employes might quit or strike and carriers declare a lockout in the same manner as before the act was passed. Should one of the contestants decline to accept mediation or arbitration, there was no provision compelling him to submit.

The increased duties of the chairman of the Interstate Commerce Commission made it imperative that he be relieved of the work of mediator, and consequently, effective March 4, 1911, the President was authorized to designate from time to time any member of the Interstate Commerce Commission, or of the then Court of Commerce, to exercise the powers and duties imposed upon the chairman of the former. Accordingly, the presiding judge of the Court of Commerce, who had previously been a member and chairman of the commission, was appointed to exercise such duties.

Only three arbitrators could be chosen under the Erdman Act and as the arbitrators selected by each of the contestants would naturally favor, even though unintentionally, the party who appointed them, the third arbitrator, therefore, was to a greater extent the sole judge of the points at issue. This fact, with other exceptions, together with results in several arbitrations that were unsatisfactory to both carriers and employes, led to agitation for a revised law to overcome the objectionable features of the Erdman Act. After extended negotiations between railroad officials and conductors and trainmen of the eastern roads, with little prospect of

settlement, a conference was arranged at the White House July 14, 1913, at which railroad presidents and representatives of the railway brotherhoods were present, for the purpose of reaching an understanding as to their respective recommendations for strengthening and revising the existing law, and settling the pending differences under the revised statute.

The substance of the agreement reached was incorporated the following day into the Newlands Act, which repealed the Erdman law. While re-enacting the majority of the provisions of the Erdman law relating to mediation, the Newlands Act provides for a permanent United States Board of Mediation and Conciliation, composed of a commissioner who devotes his entire time to that office, an assistant commissioner, and two other officers of the government. The Newlands Act also provides that when controversies threaten interruption of traffic, either or both of the parties involved may request the services of the board, which is also authorized to proffer its services to the parties when the public interest will likely suffer. An arbitration board may consist of three or six arbitrators, as the contending parties elect; if three, they are chosen as they were under the Erdman Act, but when six are desired, two are selected by the carriers, two by the employes, and these four are empowered to choose the remaining two, but failing to do so within fifteen days after they first meet, the latter two, in case neither has been agreed upon, shall be named by the Board of Mediation and Conciliation.

The Newlands Act became effective July 15, 1913. From that date until May, 1916, fifty-six controversies have been adjusted by the board. Of this number forty-five were settled by mediation, and eleven by mediation and arbitration. In twenty cases employes made application to the board for its services, in thirteen cases, the railroads and in fifteen the railroads and employes made joint application. In eight instances, the board proffered its services, which were accepted.

With a permanent Board of Mediation and Conciliation, and with three or six arbitrators now optional, instead of only three as formerly, better results can be expected since the larger number is usually chosen, and the reasoning and conclusions of six persons are preferable to that of three. However, even with the advantages of the present law, the board has no power to require the parties to

a controversy to accept its services or postpone a strike or lockout until the differences may be properly investigated and the facts furnished the public. A striking example of this fact is the congressional action of September 2, 1916, passed as a last resort to avert an impending strike of far-reaching magnitude. Excluding the temporary restraint contained in this legislation either the railroads or their employes may, at any future time when they decide that their best interests would warrant and their resources are sufficient, declare a general strike or lockout, and resort to a test of strength, thus ignoring public opinion, the greatest arbiter of justice the world has yet known and inflict untold injury and suffering upon the greater majority of our citizens who would only be indirectly parties to such a controversy.

WHY I BELIEVE THE INTERSTATE COMMERCE COM-
MISSION SHOULD HAVE POWER TO FIX
WAGES AND HOURS OF LABOR ON INTER-
STATE CARRIERS

BY O. W. UNDERWOOD,
United States Senator.

You have asked me why I believe the Interstate Commerce Commission should have the power to fix wages and the hours of labor on interstate carriers.

I might answer you that the rights of society and the progress of civilization demand it. It would be a captious answer and yet it would tell the truth.

Since the dawn of civilization the laws have been written to protect the rights of property. Courts have been established to interpret the law and determine what man's rights were under the law. No one questions that a dispute about property should be finally settled in the courts. Should either side to such a controversy resort to force instead of the law the strong arm of the government would intervene and punishment would swiftly come to the party at fault.

Centuries have piled on centuries without the law's recognizing the right of labor in the aggregate to have a court determine what was a fair and reasonable wage, with the resultant effect that when labor was dissatisfied with the wage paid, its only recourse was to quit work. When there were few men employed and there was opportunity for other employment, this was not a serious hardship to the employer or to labor itself, nor did it endanger the peace, happiness and prosperity of the public at large. But when hundreds of thousands of men are engaged for work under the same terms and the same conditions, and are paid the same wage, then it is practically impossible for one of the men employed in such a service to secure a raise of wages, on his individual merits, as long as he remains in the service because the individual equation is lost in the necessity for uniform hours of service and rates of wage, and if he is not satisfied with the terms of his employment he can only separate himself from his occupation.

On the other hand, if the men engaged in certain occupations are united in a society or labor union for the improvement of their condition and the increase of their wages and they make demands on their employer that he is not willing to accept, the only recourse that they have, unless there is a mutual agreement to arbitrate the questions in dispute, is to declare a general strike, with all the resultant injury both to themselves and their employer: loss of wages and distressed conditions in the home on one side, and loss of business and the destruction of property on the other. And arbitration is merely the establishment of a court, not by law but by the parties to the controversy, to pass on the points at issue. Strike conditions are always wasteful of time and money, dangerous and disorganizing to human society even where they are localized in area and resultant effects. But when the controversy goes far afield and involves not only the man who earns his bread by his daily toil and the man who has his money invested in the property that is giving employment to labor, but also, as was threatened recently, when the public is more seriously affected by a war between labor and capital than is either labor or capital, then the time has come when neither of the primary parties to the controversy has interests involved that should be considered in preference to that of the public, which has a right to demand that in the settlement of all such controversies the public interests shall be fairly and justly considered. In controversies involving the hours of labor and the rate of wages on the great railroad companies of America, no one can deny the importance of the questions involved to the men who do the work. Nor can it be denied, since at least 43 per cent of the cost of operating and maintaining the transportation companies of the United States is labor cost, that the invested capital in these companies has great interests at stake in determining what is a fair and reasonable wage for its employes; especially when the employer has no power under the law to fix the price of the product of his industry, the law itself fixing the price for which transportation of passengers and freight must be sold.

To state the equation differently, the law, acting through the Interstate Commerce Commission of the United States, fixes the rates of transportation for freight and passenger service and limits the earning capacity of the railroad companies. It is, therefore, apparent that if the expenses of the railroad companies are greatly

increased, either by reason of increased interest on their bonded indebtedness, increases in taxes, increases in the cost of supplies, or increases in the rate of wages, a profitable business may be changed to an unprofitable one, success into bankruptcy; unless the Interstate Commerce Commission grants the transportation companies the right to increase their rates of transportation so as to meet as fully as may be necessary the increased cost of operation. If this is done, of necessity the increased cost falls on the public; the shipper and the traveler must bear the burden. When a controversy that involves the increased cost of transportation arises between employers and employes, surely the rights of the public are at stake as much as the rights of the principals to the controversy. Should these differences be settled as has been the case in the past without the opportunity for intervention on the part of the shipper and traveler, manifestly their rights have not been protected but have been ignored entirely.

For the interests of the immediate parties to the controversy and all of the rights for which they contend are not commensurate with those of the general public. You may say that the rates of wages on the inland transportation companies of the United States amount to more than the annual expenditures of the federal government. You may say that the capital invested in the railways of the United States amounts to more than fourteen billions of dollars. You may say that the daily wage paid to 1,800,000 railroad employes affects the lives of 8,000,000 people. On the other hand, you may say that the fourteen billions of dollars representing the capital of the railroads of the United States is not owned by a few millionaires, but is in the hands of the savings banks, the trust companies and the insurance companies of America; that the investment bank takes care of the savings of the frugal public; that the reserve funds of the insurance companies guarantee the policies that protect the homes of millions of the good citizens of the republic; that the trust company manages the estate of the widow and orphan. However, both sides of this controversy must pale into insignificance when you recall that the productive capacity of the industrial workmen of America amounts to more than thirty billions of dollars each year and that this productive capacity is of no value until it reaches the market of the ultimate consumer; markets which must be reached by transportation at least a part of the way over the railroad lines

of America. To stop transportation for an hour must of necessity paralyze industry for the same hour; to stop transportation for a week, would not only stop industry for a week, but would throw out of employment millions of men who are dependent upon industry for their daily wage. To stop transportation for a month in the United States would not only destroy industry and deprive labor of employment, but would produce a scarcity of the necessities of life that would cause actual suffering to the hundred millions of people in continental United States. Therefore it would be idle to contend for a moment that either the labor or the capital employed in inland transportation has an interest in the matter of the stoppage for any cause of the movement of railroad trains that is at all comparable with the interest of the whole people of the United States.

And yet it is claimed by some in this twentieth century since the birth of Christ, in this day when both labor and capital encroach upon the rights of free men, that the only parties who are entitled to be heard in a controversy as to whether wages shall be increased or the hours of labor lessened are the men who work on the railroads and the men who represent the capital invested in the railroads; that for others to intervene is to interfere with the privileges of the contending parties; that, like two battle chieftains of old, these two parties alone are entitled to divide the spoils of war. In this era of advanced civilization, must we admit that, if the contending forces of labor and capital cannot agree as to the matter in dispute, they are entitled to resort to the wage of battle and fight out their controversy by blocking the channels of trade, by stopping the natural flow of the nation's commerce, by paralyzing the industry of the people of the United States and by bringing distress and starvation to the homes of the innocent people of America?

This has been the view point of the past, but as sure as man was born of woman, a new birth has come to the thought and the life of the people of the United States. A reactionary labor leader, or a predatory capitalist, may contend for such positions in the future, but the enlightened thought of clean Americans will wash their hands of the brutality of such transportation controversies for the future, and demand of the government of the United States, in no uncertain tones, that the same government, which protects us from a foreign foe, which was established "to form a more perfect

union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare and secure the blessings of liberty to ourselves and our posterity," shall "maintain a permanent court in this land where the controversies of all men relating to the commerce among the several states, or to the instrumentalities of such commerce, may be heard, and where the rights of all the people of the United States may be fairly and justly protected. This of necessity is the step forward, and this is the step that must be taken. To say that an organization of 400,000 men can stand in the way of the happiness and prosperity of 100,000,000 people is a proposition that cannot be contended for and maintained in any public forum or sustained in the hearts of the people of the United States.

Then how can the proposition be solved fairly to all concerned? We are not prepared without investigation and consideration to say that labor employed by the railroad transportation companies of America is receiving its full and fair return. We know that there are some employes on the railroad that are receiving low wages, and probably an inadequate pay for the service rendered; we know that their wage has not been increased proportionately with the increased cost of living. On the other hand we know that some of the employes of the transportation companies are receiving a wage that not only supplies their wants, but enables them to live in comfort and even in luxury with few hours of work. As to whether the recent controversy of the men, demanding ten hours' pay for eight hours' service was just or unjust is not a problem that the public or the Congress of the United States is equipped to decide. There can be but one way out, and that is to appoint a tribunal with the power to adjust these matters, which has the time to consider and the opportunity to know the facts. Such a tribunal must not only have the power and be prepared to do what is right and just by the labor employed on the railroad, but must have authority and power to see that invested property is not confiscated by its decisions. For, should you confiscate the property of the transportation companies of the United States, you break down transportation in the same way that you would break it down with a strike, with resultant injury to the public at large.

A tribunal of this kind must also have the authority and opportunity to consider the rights of the shippers and travelers of

America who in the last analysis must bear any increased burden that may fall on the carriage of property or persons over the transportation lines. This tribunal must have the authority and power to protect the rights of the whole people of the United States against the recurrence of lockouts and strikes. What body then is most capable of determining all these questions and fairly adjusting them to the interests of all parties concerned? A Board of Arbitration to be appointed by the employers and employees of the railroad companies of the United States will only look to the matters in dispute between the contending parties, and will not have in mind the ultimate rights of the public. The general courts of the land are not equipped either with the knowledge or the power to obtain information in reference to the cardinal facts that must decide the controversy. If you want a final and fair adjustment of such a controversy, you are practically driven to leaving the decision to a commission that has full and ample opportunity to investigate the rates of wage, the earning power of the transportation companies, the burden that rests on the shipping public, and, after a fair and full investigation to determine; first, what is a fair and living wage for the men, and to how great an extent a fair and living wage may be increased to enable the toilers to secure the higher ideals of life and living; second, how far this charge can be placed on the capital of the corporation without breaking it down, destroying the value of its securities, bankrupting its property, and taking away from the investing public a fair return for capital invested; third, how far an increased charge for labor, interest, or supplies can be handed down to the public without doing injustice to the shipper and traveler, and without becoming a menace to the development of the industry of the country. All of these questions must be determined by a court or by an independent commission, but their findings, except in so far as they may determine the rate of wage that must be paid by the railroad companies, and the rate of wage that must be received by the men if they continue their employment, will be academic because they will have no power to operate on the side of the problem in which the general public is interested. The power to determine what are just and reasonable rates for the transportation of persons and property over the interstate railroads of this country is fixed by law in the Interstate Commerce Commission of the United States. This commission alone can determine whether

the rates shall be increased and whether a charge made against the railroad company shall remain a charge on its capital or whether, in justice and fair dealing, it shall be handed on to the shipping and traveling public.

It is, therefore, clear to me that the same power that has the right to fix the rates of transportation should have the power to fix the rates of wage and the hours of labor on the great transportation companies of the United States, and that this power and this duty should be given irrevocably to the Interstate Commerce Commission in order that it may do justice between employer and employee. The granting to the Interstate Commerce Commission of the power to determine the hours of labor and the rate of wage will solve the problem for the future. Men cannot strike against the decrees of the government. After a fair determination of the controversy by an impartial tribunal, public sentiment would force the contending parties to accept the verdict rendered as final. It must be so in the interest of the happiness of the men involved, the prosperity of the people and the peace of the nation.

Until recently the court of arbitration has occupied the same position in labor disputes that the white flag holds in international law. Both have been the pledge of a higher civilization and their abandonment portends ill to our future progress along lines that lead to the high ideals. The settlement of disputes by arbitration should not be abandoned. It is a step in the direction of law and order, but it is only the half way house to the final solution of the matter we have under consideration. Arbitration cannot solve the greater question of the public rights, and it calls for a controversy before it can be adopted as a settlement of the pending issue. Labor has heretofore appealed to the Congress to fix the hours of labor and the rate of wage in gainful occupations. The Supreme Court of the United States has held that the Congress may by law regulate the instrumentalities of interstate commerce, and there can be no question as to the constitutional right of the legislative power to do so. Let us hope that the Congress will do its full duty and remove this question from the field of uncertainty by giving ample authority to the Interstate Commerce Commission to decide these questions.

The Congress has recently passed a law temporarily granting ten hours' present pay for eight hours' work in the future, with

standard pay for all overtime to the men engaged in the movement of trains; it is said that this increase in wage amounts to 25 per cent of the amount formerly paid and will go to about one-fourth of the men employed by the railroad companies. The combined pay roll of the railroads in the United States amounts to \$1,005,277,249. If the Congress should grant a like increase to all the men employed by the railroads it would amount to something like a quarter of a billion dollars. Such an amount of necessity must be paid by the public or certain if not most of the railroads would go into the bankruptcy court. The railroad men involved have heretofore received fair wages, the average daily wage in the United States having been for engineers, \$5.40; conductors, \$4.60; firemen, \$3.25; and other trainmen, \$3.15. Under these conditions it is only just and fair that the public, which in the end must pay the bill, should be represented in the court of final arbitration. And where else can the public have its day in court if the rate of wage and the hours of pay are not determined by the Interstate Commerce Commission?

SHALL THE INTERSTATE COMMERCE COMMISSION
AND THE STATE PUBLIC UTILITY COMMISSIONS
FIX WAGES ON THE RAILROADS AND ON
LOCAL PUBLIC UTILITIES?

By DELOS F. WILCOX,
Franchise Expert, New York City.

It would be hard to over-estimate the theoretical importance of the suggestion that the wages to be paid by railroads and public service corporations shall be fixed by public authority. A number of fundamental questions of political and social economy are involved. Back of the proposition lies the assumption that a railroad or a public utility is essentially a monopoly and therefore has been taken out of the category of undertakings whose operations in so far as they affect the public can be regulated by free competition. The proposition assumes as an established fact the existence of public regulation of the rates and service of railroads and public utilities and also assumes that such regulation is theoretically appropriate. But the proposition goes much further. It assumes the theoretical correctness of Ricardo's "iron law of wages" and the practical necessity of collective bargaining in competitive industries in order to enable the workmen to escape from the unlimited competition of labor postulated by Ricardo, and thereby to secure for themselves a standard of living high enough to make them fit for citizenship in a democracy. The proposition makes still another assumption, namely, that the public interest in the continuity, safety and efficiency of railroad and public utility service is paramount to the interests both of the owners and of the employees. In fact, it is the preëxistence of these assumptions that creates the problem for the solution of which the public regulation of wages is proposed. Therefore, in the discussion of this proposition we must first examine the several assumptions upon which it is based to see whether or not they should stand as they are, be subjected to certain modifications or be rejected entirely.

First, as to the assumption of monopoly. President Wilson has been severely criticized for saying that the eight-hour day has

received the general sanction of society. Perhaps the statement that the monopoly character of railroads and public utilities has been generally recognized by society would be subjected to the same kind of criticism; for if we examine carefully the constitutional, statutory and franchise provisions under which railroads and public utilities are operating in the various parts of the United States, we shall probably still find a great preponderance of provisions intended to preserve competition and prevent monopoly over the provisions which may fairly be said to contain a recognition of monopoly as the natural and appropriate status of these enterprises. Indeed, the rejection of general eight-hour laws by the electors of certain western commonwealths could be paralleled by the adoption of competing public utility franchises by popular vote, and by the recorded opposition of the people and their representatives to the establishment of monopoly in railroad service. Therefore, while it may be truthfully said, I believe, that the preponderant opinion of those who, through actual operation of these enterprises, through scientific study of them or through responsibility for the intelligent protection of the public interest in connection with them, have been in a position to form a sound judgment on the issues involved, is in favor of monopoly as against competition, it cannot be said with any degree of assurance that if a popular vote were taken on the question, the majority would concur in this opinion. Nevertheless, the theory of continuous public regulation through the agency of federal, state or local commissions, is logically based upon a recognition of monopoly as an existent fact. A distinction should be made, however, between the recognition of monopoly as a fact and the recognition of its existence as a normal and appropriate condition. It is only in those relatively few instances where exclusive franchises have been granted, that the appropriateness of monopoly has been fully recognized. Even the provisions now quite common in railroad and public service laws, to the effect that new competition in the same utility shall not be instituted in any given community except with the definite sanction of the state through a certificate of public convenience and necessity, do not constitute a final recognition of the appropriateness of monopoly. The certificate of public convenience and necessity is, as it were, a second string to the state's bow in the exercise of its powers of regulation. This view was set forth with great clearness and cogency by the

California Railroad Commission in the *Great Western Power Company Case* in 1912. It is true that most of the state commissions have been less ready than the California commission to use their power to permit competition even as a potential weapon to enforce the just demands of the public, but nevertheless the right to do so is nowhere denied them.

It would be idle to attempt to deny the fact that the monopoly of railroad service in the United States is far from complete and that the elements of competition still persisting give rise to very considerable difficulties in the application of the theory of public regulation. I may cite the decision in *The Minnesota Rate Cases* (230 U. S., 352), where the court sustained statutes and commission orders with reference to certain strong and favorably situated railroads while setting them aside as to a weaker road operating within the same local jurisdiction. It is another "well recognized principle of social economy" that in the development of a public utility or railroad system to serve a given community, the cost of the service ought to be spread over the entire system and the extensions through lean territory ought within reasonable limits to be carried by the portion of the system which has actually developed earning power through density of business. Yet obviously this policy cannot be carried out where there is diverse ownership of the lean and the fat; for if rates to the lean are raised to a living basis, the increase will do them no good unless the fat are also permitted to charge the same rate, in which case they are certain to become overcorpulent. If, on the other hand, the rates to the fat are reduced to the level of a hygienic regimen, the lean, being in competition with them, will starve. In these cases the United States Supreme Court found itself confronted with a situation where monopoly in the larger sense was non-existent and where, therefore, it was deemed improper to establish a fixed schedule of rates applicable to all the different railroads serving the same general community.

I may cite as another illustration the water supply in one of the outlying districts of Greater New York. This is a case where the city of New York, through its municipal system, serves about three-quarters of the territory and more than nine-tenths of the population within its corporate limits. In the particular section referred to, however, there are two private water companies having coterminous franchise and charter obligations. One has for many years supplied

the general service at rates higher than the rates charged in surrounding districts by the city. The other a few years ago revived an old franchise, established a modern pumping station and started in to compete with its older rival, not by rendering a general service throughout its franchise area at lower rates, which it probably would not have been able to do, but merely by trying to pick off the large industrial consumers in the particular corner of the district where its plant was located by charging a rate even lower than the city rate. The older company, in order to hold at least a portion of its industrial business in that portion of its district, was compelled to make a differential rate to meet the unfair competition instituted by the new company. Several years later the question of regulating the older company's rates came before the proper authorities for determination. This company, charging generally higher rates than the city rates, served a population of about one hundred and fifty thousand people, while its little rival had only nine consumers, one of whom, however, took about one-fifth as much water as all the consumers of the larger company. The authorities were confronted with the fact that in order to reduce the rates generally throughout the district and at the same time to establish a uniform living rate for the company rendering general service, it would be necessary to make a rate higher than the rate charged by the small company with a few consumers and that if such a rate was established for the large company unless it was made to apply to the small one, regulation would be ineffectual, as it would practically compel the larger company, after having its rates reduced and adjusted to the requirements of a fair return upon its investment, to see its most profitable business taken away by its unfair rival and the equilibrium between investment and earnings sought to be established by regulation thereby destroyed while the unfair rival would be directly rewarded for its unfairness. It was evident that the only effective method of regulating rates for one company was to regulate them and make them uniform for both, but this might involve a contradiction of the theory that each public service corporation should be permitted to earn a fair return upon its investment in the public service; for a uniform rate could not be worked out for two companies, operating with very different investments and operating under very different conditions, that would, except by chance, yield each of them a fair return and no more upon its own investment. It seemed theoretic-

ally necessary, therefore, in this case, to fix rates on the basis of the investment and earnings of the company which was rendering general service and to compel the other company to charge the same rate irrespective of whether this rate would enable it to earn more than a fair return upon its own investment or compel it to get along with less. The many practical and theoretical difficulties of carrying regulation through according to this program raised the question as to whether it might not be more advisable for the city to acquire the property and business of the larger company, so that just and reasonable rates and service could be brought within the reach of the people of this community, rather than to embark upon the difficult and uncertain litigation which would probably ensue upon the issuance of a rate order along the lines contemplated.

I have cited these two illustrations to show that even for the purpose of the regulation of rates and services, a complete monopoly in railroads and utilities does not everywhere exist. When it comes to the regulation of wages, the absence of a perfect monopoly gives rise to certain grave difficulties. If wages are to be regulated by public authority, they will have to conform to some standard of uniformity. For the same class of service within the same district, the same wages will have to be paid to all employes, subject to possible variations on account of length of service. If all the railroads within a given district of the United States were actually operated as a monopoly, then it would be possible to apply a uniform wage schedule, using the older and more experienced men on the lines where traffic is most congested and responsibility of employes greatest and where their energies during the hours of employment are utilized to the highest degree. But where competitive conditions exist, it may be entirely inappropriate that the scale of wages paid on the poorer road, where employment is less intense and responsibility both for life and property less exacting, should be the same as on the road where traffic is denser and responsibility greater. Except as the government regulates rates and service in connection with the railroads and public utilities and requires continuity of operation, there certainly is no more call for regulating the wages of railroad and public utility employes than there is for regulating the wages of workmen in other branches of industry, and therefore, in so far as the railroads and the public utilities fall short of being monopolies subject to effective regulation as to rates,

service and continuity of operation, it will be difficult, if not inappropriate, to regulate the wages of their employees.

Various good

I have said that the proposition to regulate wages also assumes the theoretical soundness of Ricardo's law, namely that wages tend to be reduced through competition to the point where they will merely afford a bare subsistence for the laborer and enable him to keep the supply of labor intact through the rearing of children. It seems hardly necessary to restate the argument in favor of Ricardo's law as a broad theoretical proposition. Like the Malthusian law, it is subject to modification in various ways by facts and conditions that diverge from or controvert the facts and conditions assumed. The Ricardian law is valid enough, however, to cause a general recognition of the necessity either of public wage regulation or of collective bargaining in order to enable any particular class of workmen to improve their status in society and protect themselves in the enjoyment of a standard of living above that which would be forced upon them if they submitted entirely to the processes of free and active competition among individual workmen seeking for the jobs. Here again we might say that trade unionism has received the general sanction of society, and yet if we did say that we should be subjected to widespread and violent criticism. Nevertheless, I believe it to be a fact that the preponderant opinion of those who have carefully studied the relations of capital and labor and the relations which the masses of the people, constituting the employes of capital, bear to the institutions and functions of democracy, is to the effect that trade unions are a necessary and effective means of securing certain highly desirable and necessary ends of social economy and social justice. The dangers incident to the operation of railroads and, to a certain extent, of local utilities, together with the semi-monopoly ownership and control of these enterprises, make it especially important that the employes should be organized in order to protect themselves and to establish their status at a point where they are physically and mentally in a condition to render the safe and adequate service which the public demands. Moreover, the fact that the railroads, even where they are under diverse ownership and diverse management, are more or less closely-banded together, and the fact that local public utilities, though still in considerable measure owned and operated as truly local institutions, nevertheless have nation-wide semi-official organ-

izations, make it permissible, if not necessary, that the employes of a particular railroad or of a particular local utility should be united with the employes of similar utilities in other localities through such organizations as the railroad brotherhoods and the Amalgamated Association of Street and Electric Railway Employes. If the employes are to be left to protect themselves by means of the trade union, it is no more a violation of home rule for the local street railway men to put their grievances in the hands of an outsider with the power of a national organization behind him than it is for the owners of a local transit line to import thousands of professional strike-breakers from distant cities in order to enable them to resist the demands of their local employes and compel them to return to work unsatisfied, or else lose their jobs. I think we may take it for granted that unionism will persist and ought to persist among the employes of the railroads and the public utilities unless some other effective means of protecting and promoting the interests of the employes is devised.

This brings us to the nub of the whole problem. We have monopoly or semi-monopoly on one side and trade unionism on the other. The final sanction to which the trade union has to appeal for the enforcement of its demands is the strike, and it is as a result of the peculiar way in which a strike, in connection with the railroads and public utilities, affects the interests of the general public, that our problem becomes acute. In the President's recent negotiations to prevent a strike on the railroads of the United States and in the steps taken by the mayor and the chairman of the public service commission of New York City to prevent a strike of the traction employes, the paramountcy of the interests of the general public in controversies of this kind was clearly brought out, and it is as a result of the development of situations like these that we are now engaged in a discussion of the possibility of substituting for the strike a mode of governmental action that will safeguard the interests of the public while not sacrificing those of the employes whose only ultimate weapon for self-defence and the promotion of their legitimate interests has heretofore been the strike. Of course, it may be stated generally that from the standpoint of the public at large the strike, as applied to any great industry, is an unsatisfactory procedure. Society is interested in the efficiency of all industries, for their sole charter of existence is social need. But the interest of the public in

the *continuity* of particular industrial enterprises varies according to the nature of the enterprise and according to the economic conditions existing at the particular time. In so far as the interruption of the continuity of industrial operations brings sudden and overwhelming hardship upon the employes who are thrown out of work, the government has an interest because of its ultimate responsibility for the life and welfare of all the people within its jurisdiction. Beyond this, however, the public interest in continuity is chiefly confined to those industries which are monopolistic or semi-monopolistic and by the interruption of which a constant public need is interfered with. In so far as the meat-packing business of the United States or the milk supply of a particular city or the mining of coal assumes the characteristics of monopoly, even though these industries are not generally classed as public utilities and have not been brought under the supervision of the Interstate Commerce Commission or state or local public service commissions, a strike in any one of them, causing an interruption of a necessary general service, runs counter to a predominant public interest and justifies the government, as the representative of this interest, in taking such action as may be effective to reestablish the continuity of service. But when we come to the railroads and to full-fledged public utilities such as local transit, water supply, telephone service and lighting and power service in cities, we touch upon industrial enterprises in which, on account of the universal demand for their service, the impossibility of accumulating or storing the service to bridge over interruptions, and the peculiar conditions under which the service is rendered, it is absolutely imperative that continuity of operation be maintained.

These are semi-governmental services and their cessation breeds the perils both of universal want and of intolerable anarchy. A street railway strike in a great city, if it effects an interruption of service, creates a temporary paralysis of the processes of economic and social life in the entire community. The threatened strike on the railroads of the United States last August was regarded as an impending national calamity almost the equivalent of war in the intense suffering and the colossal losses which it would cause. Such a strike is always the signal for the unleashing of the crude elemental forces of society which readily break through the thin veneer of civilization and for the time being endanger the whole

structure. What an effective street railway or railroad strike means to the community is more or less patent to all, as a result of the many instances in which strikes of this nature have been undertaken during the past twenty-five years. What a telephone strike that would actually interrupt telephone communication within a great city for a single day would mean at this stage of urban civilization, is not so easily recognized because we have had very limited experience with telephone strikers. In other public utilities, such as gas, electricity and water supply, effective strikes are practically unknown. The smaller number of employees and the comparative ease with which competent workmen could be recruited from other industries or from men in the same industry who have been promoted to higher positions, to take the place of strikers, have prevented the strike from becoming a serious public menace and it might well be, if it is deemed necessary to adopt the policy of fixing wages by act of the Interstate Commerce Commission and the state public service commissions, that, at least in the beginning, this policy should be limited to transportation and communication services.

We may safely assert that legal measures should be adopted to prevent these strikes on transportation lines—interstate, inter-urban and local—and also on telephone and telegraph systems. But this does not require that the Interstate Commerce Commission and the state public service commissions should at once embark upon the policy of wholesale wage-fixing. It would seem to be much more feasible to work out some plan like that recently suggested by Mr. Henry R. Towne of the Merchants' Association of New York, under which the organization of employees would not be interfered with and collective bargaining would not be abandoned, but the final sanction of the employees' demands would not be the strike, but arbitration, with an appeal to the Interstate Commerce Commission or the state public utility commission, as the case may be. Every employee would have to enter into an individual contract with the company employing him, sanctioned by law, providing against concerted action to cause an interruption of service. But if the employees of railroads and public utilities are to give up the ultimate right to strike and must rely upon the justice and mercy of the commissions, they will have to be prepared to go into politics to see that the commissioners are not selected and owned by the

companies. As the control of the commissions by the corporations is, next to ignorance, laziness and blatancy on the part of commissioners, the greatest possible menace to the regulation movement, perhaps it would not come amiss to have another powerful organized interest taking a hand in the selection of the commissioners. The public would still have to "foot the bills," as it must do in any case, but it should not be forgotten that within reasonable limits good service is, to the public, more important than low rates, and that with the legitimate demands of the employes taken care of good service is much more likely to be provided than otherwise would be the case. If the railroads and the public service corporations should combine with the employes to control the commissions and exploit the general public, then the latter, if it cannot organize public opinion and its own voting strength effectively to resist the combination of special interests, will have to resort to public ownership and operation.

LEGISLATION CONCERNING THE RAILROAD SERVICE¹

By EMORY R. JOHNSON, PH.D., SC.D.,

Professor of Transportation and Commerce, University of Pennsylvania.

I am asked to state how the public regards the controversy that has arisen over methods of settling disputes between the railroad companies and their employes. While I think I can speak without bias or partisanship, I of course recognize it to be impossible for any one individual to represent the views of the general public on a complicated controversial question such as the one under consideration. Indeed, it is probable that the public as a whole has reached no single definite conclusion. Although I shall venture to state what I think is the belief of the public concerning the principles and methods that should be followed in deciding controversies between the men and the managers in the railroad service, it will be understood that in advocating the adoption of remedial measures I can represent the views of only one member of the public.

It will at least afford a starting point and may assist in simplifying the problem under discussion to begin with a statement of certain principles upon which there may be presumed to be a general agreement on the part of the public.

I am sure the public is of the opinion that for all classes of railroad employes the hours of labor ought to be reasonable, and the wages fair and generous. Organized effort on the part of the employes to secure fair wages and reasonable hours of labor has always met with sympathy on the part of the public.

The railroad companies, it is further agreed, should be permitted to make such charges for their services and to earn such revenues as may be needed to enable the carriers to pay good wages for reasonable hours of service. Individual shippers and local communities, under the stress of competition, will naturally oppose increases in railroad rates and will press for a reduction of transportation charges; and, indeed, the country as a whole, represented by its state and federal railroad commissions, will inquire into the reasonableness of

¹ An address delivered before the Economic Club of Philadelphia, November 24, 1916.

existing and proposed railroad charges; but public opinion as a whole will justify the commissions in allowing the railroads incomes large enough to enable them to deal generously with their employes.

A third principle concerning which the people of the United States are unanimous is that the interests of the public are superior to the interests of either the carriers or their employes. The public intends to deal justly with railroad managers and with their employes. It expects justice in return; and will insist that the welfare of the hundred million people of the United States shall be placed above any temporary advantage or need of either employes or carriers.

It is evident to the public that the transportation service must not be interrupted by any controversy between employers and employed in the railroad service. The public, represented by the federal government, can permit neither the railroad managers nor their employes to stop the service of railroad transportation. Not only the welfare but the very life of society is at stake. The railroads must run, else people will starve, anarchy and violence will displace orderly government, and there will ensue what President Wilson has termed a "tragical national calamity." It should be understood that whatever happens the trains must run, and that all the power of the government of the United States will, if necessary, be exercised to that end.

It follows logically from the foregoing conclusion that disputes between railroad companies and their employes must be settled by mediation or arbitration and not by any action of employers or employes that will stop transportation. To quote the words of President Wilson, "there should be firm adherence . . . to the principle of arbitration in industrial disputes." It is necessary and desirable, as the President states, that the country "take counsel . . . with regard to the best means . . . of securing calm and fair arbitration of all industrial disputes in the days to come." Means and methods are appropriate subjects of debate, but the debate should be only as to means and not as to the necessity of the settlement of controversies without interruption of the railroad service.

The reasons for this will be stated presently, but before stating them I will venture the opinion that the majority of the public is

agreed upon one other principle, that is, that in so far as possible wages and hours of labor should be adjusted by negotiations between employes and employers, that wages, outside of the government service, ought not to be fixed by statute, and that the hours of labor should be established by law only when the safety and health of society and the protection of the weak against the strong make such statutory action clearly necessary. It is, I think, the belief of a majority of the American people that this principle is fundamentally sound; that it is in the interest of the workingman and is promotive of social welfare and progress that men in their organized capacity should continue to negotiate with their employers as to wages and conditions of service. This view, I take it, is held by most leaders of organized labor as well as by other men of responsibility.

The application of the principle that wages and hours of labor should be adjusted by negotiation between employes and employers instead of by statute necessarily involves the broad question of the wisdom or unwisdom of establishing by law a general eight-hour labor day. Many zealous friends of labor are seeking the enactment of laws limiting labor to eight hours a day. The effect of such legislation upon the present and future welfare of wage laborers should be carefully considered. The men who work for wages have, possibly, made more progress in the United States than in any other country. This progress has been greatly promoted by the organization of labor and by negotiation between organized labor and its employers. It is now proposed to fix hours of labor rigidly by law rather than to adjust them by negotiation between the parties in interest. The significance and consequences of this change should be carefully weighed.

The best method to settle differences that arise between employers and employes is by direct negotiations carried on by representatives of the parties in interest. The next best means of disposing of a dispute is by mediation and conciliation by responsible government officials who act as the representatives of the public. When an adjustment is finally made as a result of mediation, neither party feels that he has sacrificed his vital interests. Arbitration is the next best method of adjusting labor troubles. For many years arbitration has been successfully employed in the adjustment of controversies between the railroads and their employes. The present agency for the peaceful settlement of railway labor

disputes can doubtless be improved by making such changes as experience shows to be desirable; but nothing in past experience indicates a failure of arbitration.

The advantages of arbitration were well illustrated in the adjustment of a disagreement that arose between the Southern Pacific Company and its telegraphers represented by the Order of Railroad Telegraphers. The trouble arose at the close of 1906. For a number of years the relations of the railroad company and its telegraphers had been determined by a schedule or agreement. The time came when the employes felt that their wages should be increased and that Sunday labor should be limited to five hours. The employers also desired certain changes made in the "schedule" or agreement with the telegraphers. Under the agreement that had been in force for some time the company was limited to the seniority rule of appointment and promotion of telegraphers and was thus prevented from introducing new blood into the service. The agreement also required the company to select its station agents from the telegraphers having seniority of service, and the company wished greater freedom in the selection of the station agents. The company and the employes, being unable to adjust their differences, agreed to submit the controversy to arbitration. This was the second arbitration under the Erdman Act and I was chosen by the government as the third arbitrator and acted as chairman of the board. The award that resulted from the arbitration gave the employes half-time on Sunday, or, in lieu thereof, a leave of absence on full pay for twenty-six days per annum. The employes were also given an increase in wages of seven and one-half per cent. The company was relieved from the limitations of the seniority rule by which their selection of telegraphers had been restricted, and the company was also permitted to select men who were not telegraphers to serve as agents at the more important stations. Although certain features of the award were contested in the courts, the controversy was, in the end, adjusted practically in accordance with the award of the arbitration board and in a manner that was apparently acceptable to both sides.

There can be no doubt that the public believes that all disputes between railroad employes and employers that cannot be settled by negotiation or conciliation should be decided by arbitration. The public believes arbitration to be right in principle, and that ap-

propriate measures should be taken as soon as practicable to carry out the principle in practice. This may ultimately require the adoption of laws making obligatory the arbitration of controversies in the railway service. Compulsory arbitration may not be necessary in industrial labor disputes, but in the case of the railroads, where an interruption to the service is intolerable, only one or the other of two courses of action seems possible.—

One course is to leave arbitration voluntary and optional, as it is at the present time, in which case it should be understood that the government will and must take whatever measures are necessary to prevent either party to a controversy from stopping the service of transportation. The other course, and the one that will probably be adopted as the final solution of the problem, is to make arbitration compulsory in case mediation and conciliation by public officials fail to bring the contestants to a basis of agreement.

During the coming months the country is to give this question serious consideration. Whether the decision will be in favor of compulsory arbitration or in favor of compulsory investigation as a first practicable step towards the final goal it is too early to predict. The present thought of the country regarding the question was admirably stated by Senator Newlands, the chairman of the joint Congressional committee on transportation, which, on the twentieth of November, 1916, began an elaborate investigation into the whole subject of the relationship of the government to the railroads. In outlining the investigation which the committee proposes to make, Senator Newlands stated, among other things:

As to wages and the hours of labor, it is very evident that under present conditions the only ultimate method of settling a difficulty between a railroad and its employes is a resort to force. * And the question is whether a nation pretending to some degree of civilization, which has eliminated the doctrine of force from application to controversies between man and man, and which furnishes judicial tribunals for the settlement of these controversies, and which is now and has been for years endeavoring internationally to secure a system under which the nations of the earth will create similar tribunals for the adjustment of international disputes without resort to force—whether such a civilized nation can be content to perpetuate the existing condition of things is a subject of profound thought.

It would seem to be our highest duty to meet this condition and . . . to create some system under which a resort to force, the most barbaric and brutal of processes, can be avoided for the settlement of disputes between great employers and vast bodies of employes.

The most important statement that has thus far been made concerning methods to be adopted to give practical effect to the principle of arbitration as a means of settling disputes between railroad employes and managers is the proposal which the President embodied in the legislative program which he laid before Congress on the twenty-ninth of last August.² The President asked Congress to adopt

an amendment of the existing federal statute which provides for the mediation, conciliation and arbitration of such controversies as the present by adding to it a

² Since this paper was written, the President has presented his annual message to Congress and has renewed the recommendations previously made. In the annual message the President urged upon Congress the necessity for "the provision for full public investigation and assessment of industrial disputes, and the grant to the Executive of the power to control and operate the railways when necessary in time of war or other like public necessity."

In support of this recommendation, the President argued that:

"The country cannot and should not consent to remain any longer exposed to profound industrial disturbances for lack of additional means of arbitration and conciliation which the Congress can easily and promptly supply. And all will agree that there must be no doubt as to the power of the Executive to make immediate and uninterrupted use of the railroads for the concentration of the military forces of the nation wherever they are needed and whenever they are needed.

"I would hesitate to recommend, and I dare say the Congress would hesitate to act upon the suggestion should I make it, that any man in any occupation should be obliged by law to continue in an employment which he desired to leave. To pass a law which forbade or prevented the individual workman to leave his work before receiving the approval of society in doing so would be to adopt a new principle into our jurisprudence which I take it for granted we are not prepared to introduce. But the proposal that the operation of the railways of the country shall be stopped or interrupted by the concerted action of organized bodies of men until a public investigation shall have been instituted which shall make the whole question at issue plain for the judgment of the opinion of the nation is not to propose any such principle. It is based upon the very different principle that the concerted action of powerful bodies of men shall not be permitted to stop the industrial processes of the nation, at any rate before the nation shall have had an opportunity to acquaint itself with the merits of the case as between employe and employer, time to form its opinion upon an impartial statement of the merits, and opportunity to consider all practicable means of conciliation or arbitration. I can see nothing in that proposition but the justifiable safeguarding by society of the necessary processes of its very life. There is nothing arbitrary or unjust in it unless it be arbitrarily and unjustly done. It can and should be done with a full and scrupulous regard for the interests and liberties of all concerned as well as for the permanent interests of society itself."

provision that in case the methods of accommodation now provided for should fail, a full public investigation of the merits of every such dispute shall be instituted and completed before a strike or lockout may lawfully be attempted.

This proposal of the President contains the essential principle of the Canadian Industrial Disputes Act which applies not only to railroads but to all public utilities and to the coal and metal mining industries. As stated in a bulletin published by the United States Bureau of Labor:

In these industries and occupations [in Canada] it is unlawful for employers to lock out their workmen or for employes to strike until an investigation of the causes of the dispute has been made by a government board appointed for this particular case and the board's report has been published. After the investigation is completed and the report made, either party may refuse to accept the findings and start a lockout or a strike. The investigating board usually tries by conciliation to bring the parties to an agreement, so that the functions of the board considerably exceed those of a body appointed solely to procure information.

It was evidently the thought of the President that a full public investigation of the merits of a dispute between railroad managers and employes would disclose a basis of settlement that would be so manifestly just as to cause both parties to accept the findings of the board of investigation. That might uniformly be the result; but such a happy settlement of controversies might not always be accomplished; and there would still be the danger of a strike or lockout.

The President realized that a law providing for compulsory investigation of railway disputes before a strike or lockout can be lawfully declared must also provide against an interruption of the service of transportation, and he recommended as a part of his legislative program—

The lodgment in the hands of the executive of the power, in case of military necessity, to take control of such portions and such rolling stock of the railways of the country as may be required for military use, and to operate them for military purposes with authority to draft into the military service of the United States such train crews and administrative officials as the circumstances require for their safe and efficient use.

To one who views the question from the standpoint of the public interests, it would seem as logical and as imperative that the executive branch of the government should have the power to take over and run the railroads, in order thereby to prevent violence,

disorder and starvation as that the government should be authorized to operate railroads "in the case of military necessity" and "as a matter of national defense." It is possible that the President included among "military purposes" such steps as might be necessary to prevent the tying up of the railroads and the consequent public disorder and starvation; but the President took pains to state that "the power conferred in this matter should be carefully and explicitly limited to cases of military necessity."³

Should the United States decide to adopt compulsory arbitration it will not mean experimenting with a new and untried method of enforcing the peaceful settlement of railway labor disputes. Compulsory arbitration has been in successful operation for a number of years in New Zealand, New South Wales, Western Australia, and in the Australian Commonwealth. The purposes of the Australian Commonwealth conciliation and arbitration acts of 1904, and subsequent years, as set forth in the acts themselves, are:

To prevent strikes and lockouts; to constitute a federal court of arbitration with power to provide for the amicable settlement of disputes; and failing of such settlement to make an award; to make and enforce agreements between employers and employees; to enable states to refer to it; and to encourage organizations of employers and employees, who may approach the court with disputes.⁴

According to the testimony of two impartial Australian writers:

On the whole, compulsory arbitration in Australia has been an undoubted success in so far as results can be judged during the comparatively short time the system has been in operation. In New Zealand, where it has been in vogue longer than anywhere else, the success has been unqualified. ~~True, the strength of the system has never been tested.~~ There has been no decisive struggle between masters and men. But the absence of such a struggle is in itself a sign of efficiency, and of the satisfaction given to both the factors in industrial prosperity. . . . There can be no doubt that compulsory arbitration with its concomitant awards rests on a sound basis.⁵

If, as I have ventured to assert, the public is definitely of the opinion that the public interests are above the interests of the railroad managers or their employees, that disputes in the railroad service, when negotiation and conciliation shall fail, must be settled by peace-

³ The language subsequently used by the President in his annual message was "the grant to the Executive of the power to control and operate the railways in time of war or other like public necessity."

⁴ *Annals of American Academy*, Vol. 37, p. 213.

⁵ *Ibid.*, 220, 221.

ful methods, and that the public cannot permit strikes or lockouts to interrupt transportation, then we must conclude that the public will necessarily give the President the power to keep the railroads running. This would be a power of great magnitude; but no greater than, indeed not so great as, the military power of the President.

The mere possession of great power is often sufficient to make its exercise unnecessary. It is altogether probable that, if those who operate the railroads realize that the government can and will, whenever necessary, take over and manage the railroads, they will take no action to prevent the railroads from operating. The employers and the employees in the railroad service owe it to the public to adopt means of settling their disputes without bringing universal distress upon the country; the public, acting through the government, must insist upon the peaceful adjustment of railroad controversies and must adopt the measures necessary to accomplish that end.

THE RAILROAD HOURS OF LABOR LAW

BY CHARLES R. VAN HISE,

President, University of Wisconsin.

In this discussion I represent neither capital nor union, but merely the part of the people of the United States that too often have been disregarded by both—the public.

I am in favor of the organization of capital whenever capital carries on its enterprises with due consideration for the welfare of the people. I have always been strongly in favor of the organization of labor; and I am now in favor of supporting the unions whenever they push their own interests with due consideration for the interests of the public.

As a background for the discussion it is necessary to consider for a moment the exceptional situation which exists for the public utilities. It is now generally recognized that the public utilities, and particularly the railroads, are subject to regulation through commission so far as the managements are concerned. The movement for their control was most strenuously resisted by the managers. Indeed they insisted that their business was a private one which they should handle as they pleased, but the public by sheer force imposed control upon them despite their most desperate resistance.

At the present time not only the right but the imperative necessity for public control of the railroads is recognized by all.

But it is to be noted that regulation only concerns the management. There is no public control in any whatsoever of the employees. Thus far the control has been one-sided.

In the early railroad controversies between managers and employes, the managers were the stronger. The bargaining was individual, or it concerned a division, or at most a railroad system. Under these conditions not infrequently the managers would refuse to arbitrate; and, if they did consent to do so, it was with the greatest reluctance. However, the local unions gradually recognized the increasing power given them by coöperation, and in 1902 began the concerted movement under which a union made demands upon the employers for an entire district. The increased power of

the unions given by the concerted movement, when once appreciated, led them to a number of such movements within a few years. Each of these was confined to one union but extended over a large section of the country. This may be illustrated by the engineers' concerted movement of 1912 for the northeastern part of the United States. Such a movement gave the unions equal or greater power with the managers; and then the managers were ready to arbitrate, and the unions were somewhat hesitant.

Finally in the spring of the present year a concerted movement of the four powerful unions operating trains—locomotive engineers, firemen, conductors, and trainmen—for the entire United States was organized and demands made upon the managers. Under these circumstances the power of the unions was far greater than that of the managers; and consequently the managers were ready to arbitrate and the unions would not agree to do so.

History shows that between the two there is no choice. When the employers were in the saddle they gave little heed to the public except as they were compelled to do so. Now that the unions are in the saddle they have begun to use their power in precisely the same manner as did the managers, giving no heed to the public. The question now is: will the unions pursue this policy until compelled to give such consideration, or will they be wise enough, knowing the history in regard to the managers, to steer a better course?

In the controversy under discussion the unions demanded (1) an eight-hour basis for the hundred mile run instead of the ten-hour basis, (2) time and a half for overtime, and (3) the retention of all present advantages. After the managers had agreed to arbitrate and the unions refused to arbitrate, President Wilson proposed, on August 15, 1916, that the railroads grant the eight-hour day and that the workers abandon the demand for time and a half for overtime.

It is not now possible to discuss the merits of either of these proposals. I merely wish to point out that the demand for the eight-hour day is not what it appears to be. The division points on the railroad have been arranged upon the basis of the hundred mile run as the day's work, controlled, however, to a considerable extent by the large centers which necessarily are terminals. By act of Congress the position of the terminals cannot be changed, and the basis of the day must remain the hundred mile run.

Already it has been recognized in the passenger service that five hours is a reasonable time in which to run one hundred miles, and the men get overtime if more than five hours are used. The question in the case of the freight service is whether or not eight hours is a reasonable time in which upon the average to make one hundred miles. In this connection it should be recalled that the harder service involved by the powerful locomotives and heavy freight trains is recognized by variable compensations in proportion to the character of the engine, and is greater per mile run than in the passenger service. A law requiring the men operating the trains to cease work after eight hours is wholly impracticable.

Since this is so, to call the Adamson law an eight-hour day law is a misnomer. If eight hours is a reasonable time in which to make one hundred miles in the freight service, then overtime should be paid after eight hours; if not, it should not be paid. This is a question so exceedingly complicated and involves so many factors that it would be folly on my part to give an opinion concerning its merits without a most exhaustive investigation.

However, under threat of strike, with the recommendation of the President, Congress in four days passed a law, which was signed by the President September 3, 1916, making eight hours the basis of the day's work and at the same time disregarded another recommendation of the President that the law should be amended along the lines of the Canadian Industrial Disputes Act.

The additional cost of operating the railroads due to the law, estimated at many millions of dollars, now passes on to the public. Under regulation the railroads are limited to reasonable charges by the Interstate Commerce Commission. Any great increase in the cost of operating the roads sooner or later passes on to the public. Only recently a 5 per cent advance in freight rates has been authorized. The public must pay the additional millions, because of the Adamson law, in advance of its being ascertained whether or not it should take the burden. The claims of the men may have been just or unjust. I pass no opinion upon them. If the claims were just, why not have had an investigation by an impartial tribunal in which the public, the managers, and the employees were represented? If they were just, the demands would have been granted; and if they were unjust, they would have been denied, and the public would not have been mulcted of a great sum of money. However this

is a trivial matter as compared with the precedent which has been set.

We have a situation new in this country in which the unions tell the government what laws shall be passed and it meekly obeys.

The principle has been yielded that 400,000 men can refuse to have their cause investigated and adjudicated, threaten strike, and secure legislation, thus holding up 100,000,000 people.

As one of the 100,000,000, I enter my most earnest protest against this surrender of the government. The unions are now encouraged by their success. What is to prevent them two years hence or four years hence, when an election is pending, from demanding of a timid government that they receive time and a half for overtime, without any adjudication of the merits of the question?

But suppose the strike had been called and it had been successful, what would be the situation? In the United States there is one city, New York, with over 5,000,000 population; one city, Chicago, with more than 2,000,000; one, Philadelphia, with more than 1,500,000; there are five cities, St. Louis, Boston, Cleveland, Baltimore and Pittsburgh, with more than 500,000 population; and eleven cities, Detroit, Buffalo, San Francisco, Milwaukee, Cincinnati, Newark, New Orleans, Washington, Los Angeles, Minneapolis, and Jersey City, with more than 250,000.

No other country in the world possesses so many large cities; just as there is no other country which approximates ours in railroad mileage. One is a function of the other; neither could exist alone. Large cities are one of the consequences of the modern industrial system. In ancient times there were no cities comparable in magnitude even to those of Chicago or Philadelphia, much less that of New York, for the simple reason that the people could not have been fed. Only by the continuous operation of the railroads can the people in the great cities secure food.

If a railway strike was declared and it was successful, the babies would begin to suffer for milk in a day; the perishable foods would be scanty in a week; and before a month had gone by the people would be in want for the very necessities of life.

If the operation of the trains ceased for any considerable time the greater number of the manufactories would be obliged to discontinue, both because they could not secure supplies and could not sell their products. The financial losses would be incalculable,

to be reckoned as the lowest unit, in hundreds of millions of dollars. Hundreds of thousands of laborers would be out of employment; and they would not have the money to purchase food even if it were obtainable.

The loss of life would be worst among the families of laboring men and especially the babies. The well-to-do would be able to purchase at high prices the scanty foods obtainable; and the rich, while they might suffer financial loss, would endure no hardship. The unions would be responsible not only for the paralysis of the trade and industry of the country but for the death of perhaps hundreds and the misery of millions of people less fortunate in compensation and in position than the men of the unions. The disaster to the nation would be far beyond my power to conceive or describe.

If the tremendous responsibility of a general railway strike is once appreciated by the men of the unions, I have a better opinion of them than to believe that they will ever bring dire disaster upon the country simply to advance their own selfish interests. They should unite with the public in finding a solution of the problem which will make a railroad strike in the future an impossibility. If they refuse to do this it will be necessary, just as it was with the managers, to force control upon them. The railroads *must be* continuously operated. Some other way must be found than by strike or lockout to settle the differences between the managers and employes for the public utilities.

If the question ever goes to an issue, there can be no doubt of the result. President Wheeler, of the University of California, in his first address as exchange professor at the University of Berlin, said: "In America, the ultimate source of authority is public opinion." Either managers or employes who refuse to recognize the power of this public opinion when united would be crushed. If public opinion were once united, as it would be if a strike were called, there would be a power which Congress would fear even more than it fears the unions.

What, then, is the line of progress? This is the question which deeply concerns us. The answer must rest upon the principle that the interest of the public in the operation of the railroads is paramount, and that the interests of the managers and unions are strictly subordinate. To this paramount interest both must sub-

mit. An intolerable situation exists so long as any group or groups of men, whether managers or union, can halt the continuous operation of the trains.

We now turn for a moment to the experience of other countries to assist us in finding a way. In 1910 a general railway strike was called in France; and the conditions above described threatened that country. Minister Aristide Briand immediately, under the authority of military law, commanded the mobilization of the strikers for three weeks of military training. The military duty to which they were summoned was running the trains. Disobedience would entail punishment under military law. The strike was broken in six days.

Later, in discussing the matter, Briand declared "that public servants must be required to discharge their duties regularly and without interruption." Indeed he regarded the operation of the railroads as so imperative that he declared:

If the government had not found in the law that which enabled it to remain master of the frontiers of France, and master of its railways, which are indispensable instruments of the national defense; if, in a word, the government had found it necessary to resort to illegality, it would have done so.

This he regarded as defensible under the doctrine *Salus publica suprema lex*. Briand, at this most critical time in the history of France, is Prime Minister of that country.

In Germany, so clearly recognized is the public interest in the operation of the trains that unionism is not allowed on the railroads, although recognized as legitimate in private industry. In New Zealand, strikes and lockouts are illegal altogether until a hearing is held before a court of arbitration and recommendations made. The law is so operated that lockouts and strikes have practically ceased. In Australia is a conciliation and arbitration act with provisions similar to those of New Zealand, providing for compulsory arbitration in all labor disputes. In Canada strikes and lockouts are illegal until a board of conciliation has investigated the facts and made recommendations for the settlement of the dispute. In operation, this law has greatly reduced the number of important strikes, because either side failing to accept the recommendations of the board has a unanimous public sentiment against it. South Africa has a law for preventing strikes and lockouts similar to that of Canada.

The facts cited show how far the United States are behind many other countries in the machinery to control emergencies such as arose last autumn.

In this country we have only the Newlands act which furnishes mediation and arbitration provided both sides agree. I cannot now go into the details of the law. Its impotency in an emergency has been shown. As a minimum step this law should be amended along the line of the Canadian Industrial Disputes Act, so as to compel investigation and recommendations by a tribunal in which the public is represented before a strike can be declared upon the railroads. It is probable that in any given case, if such a law were in force, so that public opinion could be crystallized by an investigation and recommendations of the board, neither side would dare disregard those recommendations.

If Congress does not pass the measures suggested or some other, with similar purposes, if it makes no attempt to remedy the situation, and the country is left in a position in which it may again be held up, that body will be indeed recreant to its trust.

I have no doubt the courts will maintain that compliance with the law proposed is not "involuntary servitude." The public interest in the operation of the railroads is so dominating that the same principles are applicable that have been held to apply in the case of the Seamen's Act and in regard to quitting trains between terminals. A strike in the railway service is of such momentous consequence to the public that the right of concerted action to discontinue service *must be qualified*.

However, even if the measure proposed be enacted into law, it is not a final solution of the problem under discussion. There is only one final solution of that problem and that is to carry the principle of regulation to its logical conclusion.

At the beginning of my paper I pointed out that regulation has been accepted as a public policy both national and state so far as the managers are concerned. The principle should be carried to the employees as well. A commission should be granted the power to fix wages for public utilities. I do not care whether there be created a separate wage commission or there be added a branch to the Interstate Commerce Commission for this purpose. There would be some advantages in having a separate commission; for then there would be one body concerned primarily with rates and

another concerned primarily with wages. Much of the statistical investigation which is necessary for one may be used by the other; and there could be a central organized bureau of experts and statisticians who would be continually collecting information for both.

Why is the proposed law logical? Why is it necessary? Because if the public interest is paramount in the operation of public utilities, then the rates allowed to be charged decide what the railroads can pay in wages. The railroads should be allowed to charge rates which give a fair dividend and no more upon the stock, pay the interest on the bonds, and pay a just wage not to one group of employes, but to all groups. A wage commission would not raise the pay of the highest paid group and, by indirection, hold horizontal or depress the pay of the poorest paid group.

The proposed amendment of the Newlands Act, while it might prevent strikes and lockouts and so avoid the greatest injury to the public, would not remedy the defect of an unjust scale of wages. It would not put the employes of the railroad upon an equal basis. If, however, there were a wage commission which at all times was studying the question of the proper relative wages of the different employes of the railroads and in relation to the wages that are paid in other industries; if it could study the question with relation to times of prosperity and times of stagnation, such a commission would be better able to determine what is a fair wage for each class of employes than are the managers or are the men.

We cannot expect the men to surrender the right to strike unless there be provided some measure which will give them fair wages and proper conditions of service; and, therefore, if the right to strike is to be curtailed it must be accompanied by some law which will insure fair treatment; and this can only be accomplished through a wage commission.

My remedies, therefore, for the existing railroad situation are, first, alleviation:—amend the Newlands Act so as to prohibit a railway strike until after an investigation of the controversy and recommendations concerning its settlement; and, secondly, as a final solution, the creation of a wage commission either as a branch of the Interstate Commerce Commission or independent of it to handle wages for the railroads.

I do profoundly hope that the present Congress will enact legislation to rescue the country from its present humiliating sit-

uation. There can scarcely be a doubt that every foreign civilized nation was amazed that the United States, which is regarded at this time as the one great neutral nation which must exercise vast moral power upon the belligerents in the settlement of the world war, has so weak and feeble a government, that it cannot handle an economic problem which concerned a small group of its own people. I can scarcely think of our position before the civilized people of the world without my cheeks becoming hot with shame. I hope that we may escape from further ignominy, and that never shall a situation recur in which the government of the United States surrenders to a minority insignificant in numbers.

THE ATTITUDE OF THE RAILROAD BROTHERHOODS TOWARD HOURS AND WAGES

By A. B. GARRETSON,

President, Order of Railway Conductors of America.

To understand the attitude of the brotherhoods toward the question of the shortening of the hours in connection with the wage rate in the late eight-hour movement it is necessary to have some knowledge of the conditions under which train and enginemen serve.

When the brotherhoods came into existence in the militant sense there were no limitations whatever upon the hours of service. Even the twenty-four hours in the calendar day were not a limit. The time to complete a trip, even though it might require two or three times twenty-four hours, was the requirement and no overtime was paid—only the trip allowance being made, whatever it might be. The men, through their organizations, first succeeded in establishing the twelve-hour day, then the ten, but during all those years the greater part of their energy was expended on the question of increasing the wage, while at the same time striving to limit the excessive use of men even where overtime was paid. Every agreement between these organizations and their employing railways used to provide that when a man had been used for a certain period—presumably sixteen hours—he should be entitled to rest, no matter where he might be, but this rule was shamelessly violated and as an outgrowth thereof effort was made by legislative enactment, and what is known as the "Hours of Service Act," fining the employers for permitting men to work a longer period than sixteen continuous hours, was enacted, but under the guise of casualties thousands of men every month, as shown by the reports of the Interstate Commerce Commission, are working periods ranging from sixteen to sixty-five hours or upwards, and experience has shown that the enactment of that sixteen-hour law operated to establish a sixteen-hour day instead of a ten-hour day, as was in force and effect, each hour thereof being paid at the pro rata rate under the present overtime regulations.

The men therefore determined to concentrate the energies of

the four brotherhoods upon the effort to do away with such excessive hours and they formulated the demand for the eight-hour day, accompanied by the demand for time and one-half time for overtime as a purely punitive measure in the hope of making it uneconomic to use men for the excessive periods which they were being used under the going arrangement, which prompted the company to use the men up to the sixteenth hour for the same rate of pay that was paid to them for the first or any one of the succeeding ten hours.

Had the real purpose of the men been only an increase in wages the punitive overtime would never have been demanded because the true incentive to work the men long hours lies in the economic feature thereof, and the way to have produced an increase in earnings would have been to have demanded the eight-hour day with overtime on the pro rata basis, as has formerly obtained. The one feature of their demand which the men most strongly insisted upon was the punitive overtime because they realized that no other agency would decrease the hours required of them to the same extent. And they further realized from practical knowledge of operation that overtime in train service is, all statements to the contrary notwithstanding, largely a controllable factor which will be controlled whenever the profit is taken from it.

The following statement by President Lovett of the Harriman Lines made before the Senate Committee on Interstate Commerce Commission in the hearing on the eight-hour bill brought out the real attitude of the railways:

We will run the railroads just as we do now and pay the overtime. That is the cheapest way out. Of course, we will do it the cheapest way we can. . . . That is the deliberate judgment of these men (railroad operating officers) as being the most economical.

In other words, the railroad companies were desirous of working men for the sixteen-hour day if it brought economic gain. Not the slightest trace of humanism appeared in their attitude—just the reiteration of the ages old position—that life, comfort, safety and happiness must all be relegated to the rear rank when profits loom large in the foreground.

The real questions were: Should men entrusted with the safety of train movement be required to work hours that make "Safety First" an empty phrase? Or should they be permitted to cease labor as soon as the lapse of a period which every tribunal,

social or hygienic in its character, has declared to be as long as men should be allowed or required to work, in view of the character of their service? Or, is the contention of the railway officials to be upheld that men should be worked as long as it is economic for the employer to work them?

The position of the railway employes was that they would shorten the hours with a probable diminution of earnings in preference to taking an increase in the wage scale, leaving the present time requirements made upon them in effect.

GOVERNMENT ARBITRATION AND MEDIATION

BY JAMES T. YOUNG,

Professor of Public Administration, Wharton School, University of Pennsylvania.

Is government arbitration and mediation a success in the United States?

Should it be made compulsory?

Should the law forbid the calling of a railway strike until a public investigation and report can first be made?

What change is required in our present government system for settling disputes?

The present article is designed to show:

That the government system has succeeded far beyond the strongest expectation of its friends;

That this success has been won in the settlement of the same kind of labor disputes as those now coming up in national and local fields;

That these results have been attained without the element of compulsion, which is therefore unnecessary and even undesirable;

That the benefits of arbitration would be lost, and perhaps the whole plan defeated, by prohibiting strikes until an official investigation could be made;

That the only compulsory feature of a government system should be a public investigation and report.

The annual loss from strikes and lockouts in the United States now equals the fire loss, which is about \$250,000,000. All are agreed that this waste of the national strength should be stopped, by government settlement if possible. But beyond this point there is the greatest diversity of opinion and misunderstanding of the facts. The general popular belief is that arbitration is the main feature of our present plan of settlement, and that since arbitration has failed (!) we must work out a new method. Few understand that the chief and most successful part of our system is "mediation," or, as it is sometimes called, "conciliation." In order to reach any conclusions on our future policy, we must first clear up these misunderstandings.

In both the national and state laws a sharp distinction is made

between mediation and arbitration. The first effort of public officials, when a dispute arises, is to "mediate." They interview each party to the dispute *separately* and secure the utmost concessions which each is willing to make. Next they try to bring about a settlement on the basis of these concessions. *This plan now disposes of over four-fifths of the railway cases that come up.* Arbitration, however, is entirely different. If the officials fail to secure enough concessions to settle the dispute, they bend their efforts towards obtaining an agreement of the parties to refer the dispute to a board of arbitration. This is the substance of the Erdman Act, the Newlands Act and all the state arbitration laws. Bearing this distinction in mind, let us glance at some of the results of the federal and state systems.

Three national laws have been passed to provide a method of settling disputes on interstate railways.

The law of 1888 was in one respect the best of the three, although it is no longer in force. It provided that the President might appoint two investigators who, together with the United States Commissioner of Labor, should form a temporary commission to examine the causes of any interstate railway controversy, the conditions which accompanied it, "and the best means for adjusting it." The report of this body was to be transmitted to the President and Congress. Such a purely investigating commission might be appointed on the request of either party or by the President himself, or need not be appointed at all. The act also contained a weak provision for a board of arbitration to be chosen by the parties if they wished, which should render a decision on all the matters in dispute. This decision, however, was not binding. That is, the parties might agree to arbitration without consenting to abide by its awards. This statute, which remained a dead letter on the books for ten years, was never utilized. The reasons are very simple and easily discovered:

(a) The balance of power lay entirely with the railway managers; many of the strikes were complete failures; the unions were on the defensive.

(b) Both sides in the labor controversies of the time were poorly organized. No principles or methods of dealing between labor and capital had yet been worked out. There were no established habits of procedure, but each strike or dispute was an event in itself, sepa-

rate and distinct from all others. We were in the "rule of thumb" stage of opinion on labor controversies.

For these reasons the decade 1888-1898, and even to 1905, represents an era in which arbitration was not the habitual but the most unusual thing to do.

The second law, known as the Erdman Act, was passed in 1898 and provided that the federal officers, on learning of a serious interstate dispute, should attempt to mediate in the method already described. Failing in this they should, if possible, persuade the parties to sign a contract, the terms of which were fixed by the law itself. This contract provided for the submission of the dispute to a board of arbitration composed of three members chosen by the parties themselves. The award made by this board should be binding for a definite period. An appeal might be taken from the board's decision to the federal courts. It is a remarkable fact that only one case was brought up under this law in the first eight years of its history. This shows clearly that the parties concerned, and public opinion in general, had not yet developed to the point where arbitration was a natural and instinctive method of settlement. In the one case that was presented during this time the railways declined arbitration and the government system failed. The employees voted to strike by an almost unanimous ballot, whereupon the managers conceded the substance of the union's demands,—a settlement that could have been easily made by arbitration. Mean-
X while in the period from 1901 to 1905 there were 329 strikes affecting the railways, with only this single case of attempted arbitration above described, and it a failure. This would seem to show conclusively that the unwillingness to make use of the previous act was not due to the weakness of the law, but to the lack of experience of the parties and the backward state of public opinion.

Beginning with 1905, however, a complete reversal in conditions took place. Despite the failure of several abortive attempts, the unions had finally got a firm grip upon all the labor supply of the interstate trains. With this there had come a parallel development in the control of railway capital; mergers had taken place; railway systems had been more firmly cemented together; the "community of interest" between competing lines had become a familiar feature of transport management. In 1902 the public had received that dramatic proof of the possibilities of arbitration which we still refer

to as "the" anthracite coal strike. This was probably the last great controversy in which the mining companies felt assured of success in a contest with labor organizations, and when victory was within their reach it was wrested from them by the national executive who forced arbitration. It is difficult to exaggerate the spectacular effect of this case. It established once for all the fact that arbitration on a grand scale in a crisis of national proportions is possible. The similarity of the issues with those arising on the railways was also helpful. This striking demonstration removed the chief obstacle to the use of the Erdman Law, and in the next eight years there followed in rapid succession a series of 61 cases, most of which were finally solved by mediation, there being only 12 in which arbitration was necessary.

X The third act, known as the Newlands Law, was passed in July, 1913. It differs from the Erdman Act in only two important points,—the boards of arbitration under the Erdman Act were considered too small by the railway managers; under the Newlands Act they may, by consent of the parties, be doubled to six members instead of three. The new law also provides that the work of mediation shall be undertaken by a special, permanent commissioner of mediation acting with one or two other federal officers, to be designated by the President, and forming a "Board of Mediation and Conciliation." Following the 61 cases presented for settlement under the Erdman Act, 60 more have already been brought up under the Newlands Law, that is, in the last three years as many controversies have been submitted and settled as in the entire preceding twenty-five years. Of these 60 cases, 51 have been settled by mediation and 9 by arbitration.

Taking the entire results of the Erdman and Newlands Laws since 1906, that is, since arbitration has become an accepted method, we observe that a total of 121 cases have been submitted. Of these over 70 were settled by mediation. Of the remainder, 21 cases were settled by arbitration, or by arbitration combined with mediation. In the remaining cases, the services of the mediators were either refused or a direct settlement made without resort to arbitration. This is an astonishing record. Two features stand out with especial prominence—the rapid increase in effectiveness of mediation, and the great importance and breadth of the problems submitted to arbitration. Mediation settled more than half of the

controversies brought up to the board under the Erdman Law, and over four-fifths of those brought in the last three years under the Newlands Act. Among the matters subjected to arbitration were issues ranging from the most minute point up to the entire terms of employment on over 40 railroads; from the discharge of an electric motorman for disobedience of orders to the settlement of pay and basic hours of work per day for many thousands of men.

Since 1910 a great cycle of demands from all of the brotherhoods has been presented to the railways. In November, 1912, the engineers asked considerable increases. The substantial part of these was granted by an award under the Erdman Act. In April, 1913, the firemen followed. Next came the conductors and trainmen in eastern territory in July, 1913, under the Newlands Act, and finally the engineers and firemen in western territory in 1914-1915 under the same law. In every one of these a marked and substantial advance was scored by the employees. It has been claimed that in a recent case the employees discovered that two members of the arbitral board owned stock in the railway concerned. It has also been complained that in some recent controversies the employees have not received all that they might properly expect. These are the only reasons made public for refusing arbitration in 1916. Against them stand the long series of awards above described covering a period of ten years in which the most meticulous care has been taken to preserve both the sensibilities and the substantial justice of the employees' side of each case. Even in the controversy arising over the discharge of a motorman, already mentioned, the arbitration board upheld the discharge on the ground of absolute public responsibility of the railway officers to enforce obedience to train despatchers' orders, but suggested a reinstatement after 60 days' suspension. The same course was taken in a similar case arising under the sixteen hours of service act.

These facts must be weighed in judging the results of our national system. For it is not sufficient that arbitration shall "keep the trains running." A plan of settlement to be permanent must offer more than this. It must afford a means of securing substantial justice. Any system which continuously raised wages in times of business disaster or which kept them down when prosperity was at the flood tide, would be unjust and hostile to the public interest. If arbitration has erred from this standard it has been on the safe

side, in favor of labor. Arbitration has kept the wheels turning and has been fair to labor. It has awarded a marked increase in pay and a reduction of the basic hours of the work day of every interstate train employe in the country.

In the state governments the experience has been less favorable, but shows the same general tendencies as in the national system. Wherever, as in Massachusetts and New York, the *custom* has arisen to refer disputes to arbitration and mediation, the state system has produced results. On the other hand, where public opinion on the question is not active, the parties usually prefer to fight it out among themselves, and the mere presence of an arbitration law on the statute book is of no consequence. This is a counterpart of the early history of the Erdman Act. The habit of arbitration and a public insistence on it must first be formed before an arbitral law can produce any valuable effects.

The state acts have usually followed the Massachusetts statute passed in 1886. It provides for a state board of conciliation (mediation) and arbitration. This board receives notice from the city or town authorities of any dispute which involves more than 25 persons. The parties themselves may also send notice to the board. Upon receiving notice it communicates with both parties and tries to reach an amicable settlement by mediation. Failing in this, it arbitrates. If this also cannot be secured, the board investigates and makes a report, setting forth the causes and assigning the responsibility for the controversy. It may also at any time make an investigation and public report upon any labor controversy affecting the public welfare. There are some important variations in the laws of the other states. In Pennsylvania and Ohio, for example, a single officer is entrusted with these duties. He first mediates and, if unsuccessful, he then encourages the appointment of a special board of arbitration by the parties. In Illinois and New York the state board itself acts as the arbitration tribunal. In some states the legislatures have merely passed an arbitration act and then dismissed the whole matter from their minds. In California there is an admirable "system" but no arbitration, since the legislature has not even appropriated money for the board.

The Massachusetts and New York systems have proven the most successful, particularly the former. In the single year 1915

there were 204 disputes submitted to the state board. Of these, 86 were voluntarily submitted for arbitration; 100 others were settled amicably by mediation. In 18 others, mediation failed and arbitration was refused, so that the board used the power above described of making a public inquiry with recommendations. These were accepted by the parties in all except 5 cases.

A reasonably well administered state system will also greatly shorten the life of any labor controversy. What this means to the community as a whole can best be realized from the figures given by the arbitration board of any large industrial state. If the dispute is serious and widespread and involves the employment of troops to preserve order, the loss to the community is a staggering one. The Ohio board estimates the cost of the Youngstown Sheet and Tube Company strike in 1916 at about \$150,000 per day. The value of any plan which cuts short such controversies and promotes a just settlement, therefore, requires no comment. Here the statement of the Massachusetts board in February, 1916, is especially pertinent—"The investigation which the board must make in compliance with the statute in any strike or lockout involving 25 or more employes substantially prevents a long drawn out controversy." This board is also called on frequently for advice by both employers and workmen and aids in the prevention, as well as the settlement, of controversies. It has constantly before it for mediation or arbitration from 20 to 40 cases, and the industries of the state have formed a fixed habit of referring disputes either to the state board or to local tribunals. The members of the board believe that this habit could be strengthened by systematic advertising in the newspapers, calling the attention of employers and unions to their duty to give notice to the board before resorting to a strike or lockout.

In Ohio the results are also excellent, although not as remarkable as in Massachusetts. Local boards are also frequently called on in that state. In the last two and one-half years, 26 industrial disputes have been taken up under the provisions of the act. The number of employes concerned has varied from a mere handful to over 9,000. During this period not a single case of arbitration has occurred, but the state officials have secured settlement through mediation. This has been successful in 11 of the 26, but these 11 include all of the larger and more important cases, except those in

which the chief or sole question was that of hours. Here mediation has been less successful.

At first glance this result seems rather small, but it must be remembered that only the most difficult cases come to mediation in Ohio. Where both sides are well organized and accustomed to dealing with each other, trade agreements or voluntary settlements are the rule, and state settlements are only sought in absolute deadlocks or where organization is weak. It is also notable that violence is almost eliminated during the time that mediation is in progress. Both sides defer all "last resort" measures pending the state attempts to effect a settlement. Mediation has shown a notable influence in removing the bitterness that often occurs in such disputes. This is in part due to the invariable policy followed by mediation boards of seeing each side separately. The Ohio board, in its report for 1916, says on this point: "In mediating strikes in Ohio during the period covered by this report, the representatives have seldom been brought together in conference, but instead confidential conferences have been held first with one side and then with the other until the facts in the case were secured and a satisfactory basis of settlement determined upon by the mediators. Usually the final terms of settlement have come not as a proposal from either side, but as a proposal from the mediators with the definite understanding that unless it was accepted without change by both sides, the proposition would be withdrawn by the mediators and each side would be in exactly its former position. Mediation under this plan does not disclose to either side either the weak points or the strong points in the position of the opposing side."

If, despite all these results, it should be urged that a new type of demand is now arising on the railways viz., for a *reduction of hours*, and that this cannot be settled by compromise, such objection must be weighed against all that we now know of the possibilities of arbitration. Undoubtedly the matter of hours requires an immediate remedy. The present situation on this point is no longer defensible.

The writer has before him the time record of a man who for 12 continuous months in 1915 worked over 11 hours a day, seven days a week, and there are numerous examples of ten-hour, seven-day men. The hours problem is one that requires an immediate solution, whether arbitration succeeds or fails. But that it can

succeed on this very point may be seen from the merest glance at the arbitration awards under the Erdman and Newlands Acts. Hours of work have frequently come up in the demands of the railway brotherhoods, and the establishment of the ten-hour day as a basis of payment on the railways is itself the result of these very arbitrations. Every scintilla of evidence that can be collected shows the ability of the arbitration system to handle this question justly and fairly on the railways. There is no type of demand which today finds so cordial a response in the public mind as the cutting down of working hours to reasonable limits. This definite change in ideas is now a well established part of our social customs; it is thoroughly familiar to the public, and is in line with what may be called our general social policy. It is precisely by inquiry, public report and arbitration that this progress can now be best realized.

In the minds of many persons our present system falls short because it does not provide a legal compulsion for the settlement of disputes in public service industries like the railways. Economic war, they say, is antiquated and should be prevented by the same method that was long ago adopted to stop private war—a compulsory tribunal. Accordingly they ask that either arbitration should be absolutely required by law in public industries or else that, as in Canada, a strike should be forbidden until due notice of the dispute has been given to the public authorities and a period of 30 days allowed for public investigation and report. There is much force, particularly in the latter view. We are undoubtedly approaching a time when it shall be necessary for the parties in interest to stop and at least listen to public opinion before they resort to force. Every consideration of public interest seems to dictate an enforced period of this kind, to be devoted to impartial inquiry and the publication of the facts with an unbiased proposal for the settlement of the dispute. But it is equally clear that we have not yet arrived at this point. Our public opinion has not yet been expressed in definite, unmistakable terms, nor are we willing to enforce any form of compulsion. We must first have some striking and dramatic proof of the need of compulsion before we shall be in earnest about it. There is only one way to force arbitration by law or even to prevent a strike by law pending an investigation and report—that is to punish by fine or imprisonment the violators of the law. Can we in the present state of public opinion prevent men from entering

into a combination of this kind? Let anyone who thinks that this is possible without a strong change in public opinion, first picture to himself the scene in court when a union official were to be sentenced to fine or imprisonment for promoting a strike. To secure a conviction we must first have borne in upon the public mind the strong belief that a fair and impartial method of settlement was possible, and that a great public calamity had been brought about by the refusal of the accused to resort to this tribunal. When we have established these two points beyond dispute in popular opinion, we shall be ready for a Canadian plan, but not until then. In the celebrated Bucks Stove & Range case, the three union leaders involved, escaped largely by reason of their prominence, their undoubted high character and ability, and the peculiar nature of the dispute in which they were involved. But it was unquestionable that they had violated the law. When the meat packers were accused of entering into a combination to manipulate prices, contrary to the Sherman Act, the government secured an immense amount of evidence which it considered unanswerable. Yet it could not secure a conviction. The trial lasted several months and cost nearly one million dollars. The jury rendered a verdict of not guilty. Aside from the technical difficulty of proving a combination, whether to promote a strike or to manipulate prices, there is a lack of strong, definite, clear-cut opinion as to what is permissible under the rules of the game of business.

It is useless to multiply laws, writs and compulsory processes, until the public has definitely and unmistakably set its face towards the enforcement of the law. A compulsory statute might be praiseworthy as the expression of a pious wish, but it would settle no controversies. During our present attitude of indecision can any one imagine a department of justice or a federal administration which would attempt to enforce such a law without the support of strong public opinion? This applies not only to the railways, but to the state systems of arbitration as well. No prominent association of manufacturers has advocated compulsory settlement. As for the workers, the union heads positively repudiate the idea in unmistakable terms.

In order to maintain the right to strike, the union heads feel that all forms of compulsory arbitration or compulsory postponement of strike must be defeated. Mr. Gompers has said: "Arbi-

tration is only possible when voluntary. It never can be successfully carried out unless the parties to a dispute or controversy are equals or nearly equals in power to protect or defend themselves." During this transition period we must get along without compulsion. We must wait until, through the inconvenience, the loss and the suffering of a great railway strike, we are all convinced—not of the advisability—but of the necessity of a compulsory system.

And now to consider the last of the questions with which we started,—what additions, if any, should be made to our present government plan of settlement? The tentative suggestion offered here is to make nothing compulsory but investigation, and to leave this in the control of the President in interstate disputes, and in the judgment of the state boards of mediation in local cases. But, it will be asked, how would such a simple provision have prevented a general railway strike? Was not an ultimatum delivered to the President that something must be done before Labor Day or traffic would be paralyzed? And was not the Adamson Act passed as the only avenue of escape from this catastrophe? The answer is to be found in certain facts which, for some reason, have never been pressed home upon the public—perhaps because of the distractions of a presidential election.

(a) The unions never demanded the passage of the Adamson Act; they were on the whole rather opposed to any law on the subject.

(b) Their demands were not made on the first of September, but in the preceding spring and were definitely formulated for public consumption as early as May.

(c) At the time of writing, December, there are large numbers of brotherhood members who do not know what the real provisions of the Adamson Law are,—some even think that it limits work to eight hours per day.

(d) Many of those who do understand the act are extremely dissatisfied with its provisions and some even violently opposed to it.

(e) A very considerable proportion of freight trainmen are employed for much longer hours than the public would approve.

If the above is a fair statement of the conditions, it will appear that there was abundant time for an investigation before the passage of the law; that such an investigation would have immediately

turned up certain facts and grievances which would have been remedied in the natural course of events, just as all other unreasonable conditions in railway employment have been remedied when made public or arbitrated; that such a substantial change could have been made in these conditions as to remove all possibility of a strike or of public support for a strike if one had been ordered, and that all real danger of a conflict would have been averted. The proper remedy then was not a compulsory arbitration, nor a compulsory suspension of the right to strike, but a compulsory investigation and public report of facts with a proposed settlement. If the President possessed and would use this authority, the chief cause of railway strikes would be removed.

BOOK DEPARTMENT

MANUFACTURING INDUSTRY

DONALD, W. J. A. *The Canadian Iron and Steel Industry.* Pp. xv, 376. Price, \$2.00. Boston: Houghton, Mifflin Company.

A study of the economic history and problems of the Canadian iron and steel industry undertaken with the secondary purpose of throwing light on the relationship between the tariff and the production and growth of the iron and steel industry.

This book, which was given honorable mention in the Hart, Schaffner and Marx's Prize Competition for 1913 is an exhaustive and scholarly work, and the first of its kind in the field. It first takes up the climatic, political and material conditions which characterize, and in the past, have retarded the development of the Canadian industry. The history of the Canadian industry is divided into three periods. First comes the early history prior to 1879, whose outstanding characteristics are fully described and explained; then the period after the adoption of the national policy in 1879 to 1897; and finally the modern period of rapid growth from 1897 to the present time.

As a result of the study of the industry, the conclusion is reached that the tariff has been a negligible factor in the development of the Canadian iron and steel industry.

J. H. W.

DUNBAR, DONALD EARL. *The Tin-Plate Industry.* Pp. 133. Price, \$1.00. Boston: Houghton, Mifflin Company.

This history of the tin-plate industry, with special reference to its growth in the United States since 1890, is the first-prize essay in the *Class A* group of the Hart, Schaffner and Marx's Contest of 1914. Particularly interesting and worth while is the comparison between the conditions of production and cost in the United States and Wales. In view of our instinctive conclusion as to the greater cheapness of European labor, it is particularly significant that the wage cost per unit output in the United States and Wales is approximately the same. The author concludes that although the tariff was *one* of the factors responsible for the remarkable growth of our industry, nevertheless, it is not needed now for protection purposes.

J. H. W.

GILBRETH, FRANK B. and GILBRETH, LILLIAN M. *Fatigue Study.* Pp. 159. Price, \$1.50. New York: Sturgis and Walton Company, 1916.

This, the latest book from the Gilbreth pens, is an inquiry into the problem of industrial motions from the side of their results upon the human organism. The authors' aim is to determine accurately what fatigue follows the accomplishment of various types of work, to suggest methods of eliminating needless fatigue

or mitigating that which is necessary, and to arouse an enthusiasm among managers, teachers, factory workers and the public that will reduce the unnecessary waste of human energy.

Fatigue Study is a corollary to F. B. Gilbreth's earlier *Motion Study*, a book that was extremely valuable as a pioneer but suffered the crudities of a trail blazer; this second work dealing with one phase of motion study is far less specialized in subject matter and in general is a much more finished production. Nevertheless, we would be rash to predict for it such widespread attention as the predecessor received for it does not present to the world such a new contribution to thought.

M. K.

MONEY, BANKING AND FINANCE

WILLIS, H. PARKER. *American Banking*. Pp. xi, 361. Price, \$2.00. Chicago: La Salle Extension University, 1916.

An earlier volume by Dr. Willis on a similar subject, *The Federal Reserve*, suffers in comparison with the present book, which is more valuable by reason of its greater scope. The former was intended for general reading, the latter as a text. While not so divided by the author, the chapters seem to group themselves in these four parts: an explanation of the elements of banking (12 chapters); a history of the relation of the government to banking (3 chapters); a description of the operation of the Federal Reserve System (4 chapters); a comparison of American and foreign banking systems and an outline of American banking problems (2 chapters). Of these groups the first and third are superior as regards content.

In certain respects the volume is inadequate. It is a physical impossibility to describe adequately the banking systems of England, France, Germany and Canada in twenty pages. The chapter on foreign exchange, for further example, is incomplete. It does not dwell at any length on the various factors affecting the rate of exchange, arbitrage in exchange, and other interesting phases of the subject. It does treat, however, of the effect of the Federal Reserve Act on this department of the banking business. Conditions under the National Bank Act are very briefly described, but this is justifiable in view of the present interest in the new system. In contrast, certain chapters are excellent, such as those on bank loans, bank deposits, bank notes, capital and reserves, the bank statement, and particularly the chapters on the Federal Reserve Act.

The principle defect of the book is lack of comprehensiveness. Its outstanding excellence is simplicity. The latter may serve to account somewhat for the former. Being designed to serve as a text in correspondence school work, necessarily it cannot go into intricate details requiring extensive treatment. While other more comprehensive texts may be found it is doubtful whether there is any containing a more readable description of the present banking system. The author's connection with the passage of the Federal Reserve Act lends additional interest to his explanations of the purposes of various provisions of the act.

ROBERT RIEGEL.

University of Pennsylvania.

SOCIOLOGY AND SOCIAL PROBLEMS

EVANS, MAURICE S. *Black and White in the Southern States*. Pp. xii, 229. Price, \$2.25. New York: Longmans, Green and Company.

This is a discussion of the American race problem by an English colonist of South Africa. The author published a similar volume in 1912 on race conditions in his home colony.

Following some preliminary passages describing the South and outlining its history, the heart of the book opens in Chapter VIII. The economic position of the Negro, the economic and social fear of the whites, their belief in the Negro's inferiority and their prejudice and determination to keep the Negro "in his place" are presented.

In two chapters following, the author discusses the thoughts, feelings and achievements of the Negro on the basis of racial mixture or purity, giving credit for greater practical efficiency to the mulatto on account of his white ancestry. He seems to ignore the better economic and other chances of the mulattoes before slavery and since. The discussion of the Negro church, lodge and education in Chapters XI, XII, and XIII hardly brings out anything beyond the ordinary. The significance of the Hampton-Tuskegee movement is well appraised.

The three chapters on Grievances, the Jim Crow Car, Political Rights and Wrongs, and Separation in Schools and Places of Public Resort seem to give the stamp of approval to existing conditions. From what the author saw, he believed railway accommodations equal, leaving out of account available facts and testimony of others to the contrary. On Negro disfranchisement, he points out that the Negro, although "voteless and voiceless in political affairs," is the one force that makes Southern politics what they are, "with death to discussion and to difference of political opinion." In Chapters XVIII to XXI, the lack of justice in the courts is strongly disapproved; personal injustice to individuals and lynching are terribly arraigned by a searching analysis.

In contrasting the North, where the Negro is pictured as a "voter without a livelihood," and the South, where he has "a livelihood without a vote" the writer fails properly to appraise the potential value of the vote in protecting workers.

The vital point of the book, however, is summed up in Chapters XXV and XXVII about the migration of the Negro population away from the land and the pointing out to the Negro and his friends the "great opportunity" now at hand for the acquisition of land while it is abundant and cheap. Also, he advises a clinching of the hold upon skilled and unskilled occupations while competition is mild.

The bibliography is somewhat too brief for a book which attempts to cover the whole question in the southern states. From the angle of the reviewer, the opinions on the economic situation are sound and valuable, especially coming as they do from South Africa where black men are severely restricted. The criticisms about the lack of justice and fair play are well taken.

The approval of other civil and political conditions are apparently drawn upon a background theory of statecraft belonging to South Africa rather than from the underlying ideals of democracy which America aims to realize.

GEORGE EDMUND HAYNES.

Fisk University.

KIRKPATRICK, EDWIN A. *Fundamentals of Sociology*. Pp. x, 291. Price, \$1.25. Boston: Houghton, Mifflin Company, 1916.

The author is primarily a psychologist and has made contributions to the literature of psychology with special reference to education. He has become convinced that "Sociology may be of as much importance to education as psychology."

The materials which the book contains are intelligently conceived and well presented. It classifies social activities according to the needs they serve, namely, economic, protective, recreative, cultural, social, moral and religious, and educational. The space devoted to activities which serve educational needs lacks only two pages of making one fourth of the book. Three chapters are devoted to community studies. Each chapter is followed by skillful questions.

The book is intended primarily as a brief text for classes. "No attempt has been made at completeness of treatment of any topic." The work does not go deep into explanation. It treats of overt social activities with little reference to the sentiments and ideas that underlie them. It seems deliberately to pass over this deeper aspect of the subject. There can be no explanation of the overt activities of society, and of the changes they undergo in social evolution, without study of the modes of variation in those prevalent sentiments and ideas of which the overt activities are an expression, and of those types of causation by which prevalent sentiments and ideas are moulded. It is such knowledge alone that gives a basis for social control, and it is such knowledge that constitutes the chief contribution of sociology to education.

E. C. H.

NASMYTH, GEORGE. *Social Progress and the Darwinian Theory*. Pp. xxiii, 417. Price, \$1.50. New York: G. P. Putnam's Sons, 1916.

To all thoughtful men and women who in this day of world conflict are carefully examining their philosophy of life, this volume is to be heartily commended. Only those familiar with European literature can realize to what an extent the belief that the survival of the fittest among nations as well as among animals is shown by warfare underlies the present struggle. Even less generally known is the fact that some writers, notably the Russian Novicov, have for years opposed this belief and have sought to show that it is contradictory to the teachings of the great naturalists. The present writer has done a great public service by writing this volume which is largely based upon the work of Novicov. The introduction is contributed by Norman Angell.

The book is divided into three main divisions: The Philosophy of Force; Mutual Aid as a Factor of Social Progress; Justice as a Prime Social Need.) In the first the genesis of the present reliance on a philosophy of force is shown and the attempt is made to show that it does not correspond with the facts and is moreover a perversion of the teachings of such men as Darwin and Wallace. In the second it is sought to show the actual ideas of the naturalists and to demonstrate that the world of nature should be that which man should conquer via the road of coöperation. In the third emphasis is laid upon moral law and justice

as the basis of relations between states as well as individuals to the end that there may be a world federation and a change "from anarchy to a League of Peace."

"Since there is no possible way of stopping the increase of armaments except by international agreement to surrender the right of conquest and aggression, the pressure of the burden of armaments themselves, which caused the Russian Czar to call the First Hague Conference, will lead inevitably to the next step of world organization, the formation of a League of Peace. From this step, once taken, the road leads straight on to the realization of the goal of evolution and the highest aspirations of the human soul, the perfection of the species, and the life more abundant for the individual through the establishment of world federation under the reign of Justice."

The reviewer is not at all convinced that the program as outlined is not in reality an attempt to substitute one half truth for another. It is, however, certain that the first half truth has been greatly overemphasized and the second greatly underestimated. It is well then to have the claims of coöperation strongly presented, and this the writer has done.

CARL KELSEY.

University of Pennsylvania.

OSBORNE, THOMAS MOTT. *Society and Prisons*. Pp. 246. Price, \$1.35. New Haven: Yale University Press, 1916.

The fundamental scheme of this somewhat informal and popular treatise is to contrast the results obtained by the traditional methods of punishing criminals and the results obtained by the aid of the Mutual Welfare League—an organization of the prisoners in the prisons of the state of New York with certain powers of initiative, self-control and discipline under the ultimate supervision of the prison authorities. The Mutual Welfare League had its immediate origin in Mr. Osborne's self-imposed imprisonment at Auburn prison where he spent a week as an ordinary prisoner, enduring all the hardships of prison life and discipline. In its present form the League embodies some of the results of Mr. Osborne's experience as warden of Sing Sing prison.

The author has no difficulty in showing the cruelty and inconsistency and disastrous social results of the old methods of prison discipline and the absurdities of some of the old theories regarding criminality and the criminal type. Many of the results under the old system were undoubtedly vicious. While some will look doubtfully upon the system of limited self-government as a method of prison discipline yet there is convincing evidence that progressive steps are being formulated in Mr. Osborne's scheme that is being inaugurated in the prisons of the state of New York.

As the author describes the inhumanities and monstrosities of prison discipline and society's method for determining criminals it seems inconceivable that such practices were—and still are, in some instances—permitted in an enlightened age. Mr. Osborne's book should aid in the hastening of the newer and better day in the treatment of so-called criminals.

J. G. S.

PARMELEE, MAURICE. *Poverty and Social Progress*. Pp. xv, 477. Price, \$1.75. New York: The Macmillan Company, 1916.

This new book is indeed welcome. It is the most satisfactory work attempting to deal with the entire field of poverty, dependency, and philanthropy which has appeared in recent years. The author has aimed to make the book suitable for guidance in the general problems of citizenship and for "use as a textbook for college and university courses on charities, poverty, pauperism, dependency, social pathology, etc."

Several features differentiate this work from previous works dealing with the same field or closely allied fields. One of these is the fuller consideration of the newer facts of biology and psychology in the treatment of poverty causation. While the development of knowledge in these fields is not complete enough to fix definite and standardized relationships yet the connection between them and poverty is discussed in a suggestive way. (Emphasis is given to the social and economic causes of poverty.) Poverty is shown to be a social abnormality, an economic defect which has some of its deepest roots in the nature of the social organization. The whole subject of causation is dealt with from the viewpoint of its fundamental social and economic elements. The social and economic measures for the prevention of poverty are also emphasized. Chapters are given over to the discussion of the problem of distribution, dealing with such topics as the raising of wages, the regulation of the labor supply, the re-distribution of income from the ownership of property, and the productiveness of society. The factors of causation and the methods of prevention are the two primary points of attack in the solution of the problem of poverty. The author's concept of social progress (which gives life and spirit to a working program dealing with poverty) is "the progress of society towards a democratic organization inspired by a humanitarian ideal."

There are several ways in which the excellence of the book might have been improved. The basis of selecting the bibliography is not clearly defined. Much good material regarding the facts and conditions of poverty is left out and other material more remotely relating to the subject of poverty is inserted. In its present form the bibliography is not classified according to the nature of the material and as a result it is not so largely usable or suggestive. There is some doubt about the proportion given to some phases of the subject. Comparatively little space is devoted to the present methods of dealing with poverty and the dependent classes. It is a question whether these should not have been more fully discussed since they are the usual avenue of approach whereby interest is developed in the more fundamental phases of causes and prevention. The book is not primarily adapted for beginners in the field requiring too much background in the social sciences. At times the terminology could have been simplified or modified to advantage. The English terms regarding feeble-mindedness are misleading for they differ in meaning somewhat from the terms in American usage.

Such an able and scholarly treatment of the subject of poverty in its relation to the life and ideals of our time is bound to be a guide and stimulus to the students and workers along social and philanthropic lines. It suggests new and

undeveloped phases of study and research which must be explored if the problem of poverty is to be met and scientifically solved.

JAMES G. STEVENS.

University of Illinois.

WORK, MONROE (Ed.). *Negro Year Book, 1916-17*. Price, 35 cents. Tuskegee Institute: The Negro Year Book Publishing Company, 1916.

INTERNATIONAL QUESTIONS

LADD, WILLIAM. *An Essay on a Congress of Nations for the Adjustment of International Disputes without Resort to Arms*. (Reprinted from the original edition of 1840 with an introduction by James Brown Scott.) Pp. 1, 162. Price, \$1.00. New York: Oxford University Press, 1916.

MACH, E. R. O. VON (Ed.). *Official Diplomatic Documents relating to the Outbreak of the European War*. Price, \$6.00. New York: The Macmillan Company, 1916.

During the last two years there has been issued a series of publications in which the official documents relating to the Great War have been reprinted. The American Association for International Conciliation first published in separate reprint form the most important of these documents. Then came the excellent work of Professor E. C. Stowell on *The Diplomacy of the War of 1914*, in the first volume of which many of these documents were printed. In the present work we have the most complete compilation heretofore attempted. This volume is divided into three parts. The first contains the despatches sent and received at the various foreign offices of the countries involved in the war. In Part II there is reprinted the Austro-Hungarian Red Book, the French Yellow Book, the German White Book and the British Blue Book. Part III contains in systematic arrangement a series of documents which will be particularly useful to the student of international relations and which are not accessible to the average reader, such as, for instance, the so-called "Brussels' Documents," found at the time of the capture of that city, and interpreted by the German government to indicate a secret understanding between Belgium and Great Britain with reference to the protection of Belgian territory.

In a voluminous appendix the author has arranged photographic reproductions of a large number of official documents, of which the most important are the notes exchanged between the diplomatic representatives of the teutonic powers and their respective foreign offices.

In his preface the author mentions the fact that he has contented himself with "the hard and slow work of collating the despatches and bringing order out of chaos." He intimates that at some future time he will undertake the discussion of their significance, but that the present work is intended exclusively as a source book for students.

L. S. R.

QUESADA, ERNESTO. *Nuevo Panamericanismo y el Congreso Científico de Washington*. Pp. 364. Buenos Aires: Talleres Gráficos del Ministerio de Agricultura de la Nación, 1916.

In a volume of 364 pages Dr. Ernesto Quesada, Chairman of the Argentine Delegation to the Pan-American Scientific Congress, gives an illuminating account not only of the work of the congress but of the larger Pan-American problems involved. He shows clearly the great international service performed by such congresses, particularly in cultivating closer cultural ties between the republics of America. It is to be hoped that in each country of the American Continent a publication as helpful as that of Dr. Quesada will be issued. The author has performed a real international service in placing before his countrymen this excellent presentation of the significance of the work of the congress.

L. S. R.

SCOTT, JAMES BROWN. *An International Court of Justice*. Pp. vii, 108. Price, \$1.00. New York: Oxford University Press, 1916.

SCOTT, JAMES BROWN. *The Status of the International Court of Justice*. Pp. iv, 93. Price, \$1.00. New York: Oxford University Press, 1916.

THE WAR

BURNS, C. DELISLE. *The Morality of Nations*. Pp. xii, 254. Price, \$1.50. New York: G. P. Putnam's Sons, 1916.

MILLIOUD, MAURICE. *The Ruling Caste and Frenzied Trade in Germany*. Pp. 159. Price, \$1.25. Boston: Houghton, Mifflin Company, 1916.

HOWE, FREDERIC C. *Why War?* Pp. xvi, 366. Price, \$1.50. New York: Charles Scribner's Sons, 1916.

SHEIP, STANLEY S. *Handbook of the European War*. Volume I. Pp. vii, 344. Price, \$1.00. White Plains, New York: The H. W. Wilson Company.

BINGHAM, ALFRED (Ed.). *Handbook of the European War*. Volume II. Pp. xi, 303. Price, \$1.00. New York: The H. W. Wilson Company, 1916.

KREHBIEL, EDWARD. *Nationalism, War and Society*. Pp. xxxv, 276. Price, \$1.50. New York: The Macmillan Company, 1916.

BREWER, DANIEL CHAUNCEY. *Rights and Duties of Neutrals*. Pp. ix, 260. Price, \$1.25. New York: G. P. Putnam's Sons, 1916.

Professor Milliod holds the chair of Sociology in the University of Lausanne and is therefore a citizen of a neutral country, and Sir Frederick Pollock, in an introductory note, tells us we should keep in mind that the work is the judgment of a neutral. A careful reading, however, will hardly confirm such a conclusion. While it is an important work, original in its conception and vigorous in argument, one cannot but feel that the author, though logical enough in his conclusions, has reasoned from premises that are not always substantiated. He assumes without argument that Germany started the war and finds four reasons for her hasty action: the first reason is that given by Germany herself, that she was the victim

of a plot; the second explanation, the one accepted in England and in part in the United States, rests upon the theory that might makes right; third, that Germany fought to get rid of the strangling rope with which the other powers were binding her; but greatest of all the causes was Germany's attempted economic conquest of the world. The whole social order was so bound up in this conquest, which had been accumulating force for some time and which carried with it the seed of its own destruction, that the German people were facing national bankruptcy and, to avert the crisis, war was declared. In the opinion of the reviewer the work is open to two fundamental criticisms. In the first place, the economic development of Germany at home and abroad is described as something wholly sinister and underhanded and unlike that of any other nation; in the second place, the author fails to show just how a war, even if successful, would, in the opinion of Germany, rehabilitate the waning fortunes of the ruling class, which in his opinion does not consist merely of a chosen few but includes the great middle class as well.

A much saner view is expressed in Mr. Howe's work. No one country is alone responsible for the war. The real explanation is rather in the diplomatic victories and resentments over Morocco and Turkey, in the aggressions of British, French and German financiers and concession seekers, and in the exploitation of weaker peoples that have fallen under the dominion of Great Britain, France and Germany during the last thirty years. Mr. Howe's book is entirely free from prejudice, special pleading and hypocrisy; he accepts neither the doctrine of German "Kultur" nor of British "morality"; capital and the exploitation of weaker states are the underlying motives in the present war.

Out of the mass of literature which the war has produced, Mr. Sheip has constructed a valuable handbook by sifting the most representative opinions concerning the great conflict and presenting them in extract and excerpt form. A historical summary of each nation engaged in the war precedes the opinions quoted and gives a background to the discussions. This volume presents the most important facts leading to the war, while the second volume of the series, edited by Mr. Bingham, follows the general plan of the first but deals with events which concern themselves more particularly with the war itself.

Mr. Kriebel's book might also properly be called a handbook for, except the thirty-five pages of introduction by Norman Angell, containing his well known argument, the work sets forth the views of the most prominent writers on nationalism, force, war, militarism and pacificism. These are arranged in analytical outline form and are supplemented by brief statements by the author. Numerous references are given at the end of each chapter and statistics and diagrams add to the usefulness of the book as a guide and work of reference upon the subject indicated in the title.

All of the above mentioned volumes deal primarily with the nations at war. Mr. Brewer, on the other hand, considers the case of the neutrals. The doctrine of blockade and contraband, questions dealing with the freedom of the seas and measures and conditions calculated to affect favorably or unfavorably the future of the United States are the principal subjects discussed. It is a brief but clear and impartial statement of the rights of neutrals as affected by the present war.

KARL F. GEISER.

Oberlin College.

SEYMOUR, CHARLES. *The Diplomatic Background of the War. 1870-1914.* Pp. xv, 311. Price, \$2.00. New Haven: Yale University Press, 1916.

The study of modern history has received from the present war a stimulus which must give it henceforth a more permanent position in the curriculum of universities and colleges. In the present volume Mr. Seymour enters a comparatively new field, occupied hitherto by a few excellent general histories, such as those of Phillips, Rose, Andrews, and Hazen, and by biographies and special treatises not generally accessible. Beginning with a study of Bismarck's creation of the Triple Alliance and of the Dual Alliance which counterbalanced it, the author passes to a discussion of the development of German world policy both in respect to its economic and its moral factors. This is followed by a consideration of British foreign policy, and of the diplomatic revolution by which Britain put aside her policy of opposition to France and Russia in favor of coöperation. The conflict of the two alliances is next described, and the closing chapters deal with the Balkan wars and the crisis of 1914. In addition to a brief bibliography arranged for each individual chapter the author gives frequent references in footnotes, though for the most part to secondary sources. It is scarcely necessary to say that there is still room for a more exhaustive work based upon original documentary evidence.

C. G. F.

TROTTER, W. *Instincts of the Herd in Peace and War.* Pp. 213. Price, \$1.25. New York: The Macmillan Company, 1916.

Many things indicate that man is essentially a gregarious animal. "1. He is intolerant and fearful of solitude, mental or physical. . . . 2. He is more sensitive to the voice of the herd than to any other influence. . . . 3. He is subject to the passions of the pack in his mob violence and the passions of the herds in his panics. . . . 4. He is remarkably susceptible to leadership. . . . 5. His relations with his fellows are dependent upon the recognition of him as a member of the herd."

Recognizing that this gregarious instinct is as powerful today as ever we may see that man can develop three types of society. He may imitate the "protective gregariousness of the sheep and the ox"; he may model his society after the "aggressive gregariousness of the wolf and the dog" or he may follow the pattern of "complex social structure of the bee and the ant, which we may call socialized gregariousness."

The present European war is not due to any necessity of contest between nations. It is a mark of the breakdown of standards or rather of the failure to realize the necessity for social ideals. It was the great merit of Germany that she saw the enormous possibilities of a conscious social order. Unfortunately, her traditions and her division into social classes led her to adopt the model of the wolf and to accept the philosophy that progress involved dominance over other types. This ideal of human society, the author thinks, must be replaced by the socialized gregariousness. Society, in other words, has become a great and new biological unit which must replace the old individualism just as the multi-celled organisms achieved a higher position than was possible to single-celled forms.

The original thesis was written and published long before the war. The latter part is added as a result of the conflict which all want to understand. The thesis is developed in most interesting fashion and will repay careful consideration. To me it has proven one of the most attractive of recent European books.

CARL KELSEY.

University of Pennsylvania.

WAXWEILER, EMILE. *Belgium and the Great Powers*. Pp. xi, 186. Price, \$1.00. New York: G. P. Putnam's Sons, 1916.

GUYOT, YVES. *Les Causes et les Conséquences de la Guerre*. Pp. xxv, 422. Price, 3 fr. 50. Paris: Librairie Félix Alcan, 1916.

ANDRÁSSY, JULIUS COUNT VON. (Trans. by Ernest J. Euphrat.) *Whose Sin is the World War?* Pp. 154. New York: Era Publishing House, (for sale by Baker.)

FRIED, ALFRED H. *The Restoration of Europe*. Pp. xiv, 157. Price, \$1.00. New York: The Macmillan Company, 1916.

Mr. Waxweiler's book is a continuation of the defence set forth in his work of a year ago—"Belgium, Neutral and Loyal" (noticed in the March 1916 number of *The Annals*).

The two volumes next in order, if read together, form a combination which will give the reader a better estimate of the causes of the war than either volume would if taken by itself, for each is written from a partisan viewpoint. The first edition of M. Guyot's work appeared in July, 1915. This, the second edition, issued nine months later, contains no important changes. The political, economic and historical causes of the war are set forth with a clearness characteristic of the writer. It must be said, however, that while the author aims to give the facts without prejudice, the conclusions of the work do not leave the impression that his aim has been accomplished. He arrays his facts with a bias and with an evident attempt to write Germany down at every point. His remedy for a permanent peace is nothing short of "a political and moral dissolution" of the German and Austro-Hungarian empires. Germany rather than Austria is, in his opinion, to blame for the war. Count Andrassy, on the other hand, accepts in behalf of Austria full responsibility for the part his country has taken in the war, and while largely excusing France for participation in the struggle, and even justifying English interference in a measure, he finds the chief cause in Russia's Balkan ambitions. In view of Russia's attitude Austro-Hungary could not do otherwise than defend herself against the inevitable disintegration planned by her enemies. Coming from a partisan, it is a very fair account written in a spirit of candor and moderation.

If Dr. Fried had not received the Nobel prize in 1911, this work alone should entitle him to that distinction, for it is by far the best work on the reorganization of Europe after the war that has thus far appeared. His interest in international questions has been life-long and he approaches the subject from the standpoint of one who thoroughly understands the problems involved. The present war is due to international anarchy and is the logical outcome of the kind of "peace" which preceded it. All the peace treaties of the past have contained the germs of the next war and a peace that is permanent must be based upon the economic

interests of all nations. Europe organized upon the principle of the Pan-American Union comes, in his opinion, nearest to meeting these conditions.

KARL F. GEISER.

Oberlin College.

MISCELLANEOUS

FORD, HENRY JONES. *Woodrow Wilson*. Pp. 332. Price, \$1.50. New York: D. Appleton and Company, 1916.

HERBERTSON, A. J. and HOWARTH, O. J. *The Oxford Survey of the British Empire*. 6 vols. Pp. lxiv, 2129. Price, \$21.75. New York: Oxford University Press.

The student in search of information on present-day economic and political conditions in foreign countries often finds it difficult to secure, without a great amount of reading, material that deals with the underlying facts of the geography, resources, industries and peoples so necessary for a proper interpretation of a country. Historical surveys there are in plenty, but comprehensive and authoritative descriptions of the lands themselves and their economic resources are conspicuous by their rarity. These six volumes supply such descriptions for all the lands that make up the British Empire. In the words of the preface their object is "to furnish a survey of the Empire and its constituent parts in their geographical and allied aspects, together with their economic, administrative and social conditions, at the present time." Five of the volumes deal with British possessions in five continents: Vol. I, The British Isles and Mediterranean possessions; Vol. II, India and other Asiatic possessions; Vol. III, African territories; Vol. IV, Canada, Newfoundland and other New World Possessions; Vol. V, Australia, New Zealand, the Pacific Islands and Antarctic. The sixth volume, entitled a General Survey, deals with such topics as British Colonial Administration, Imperial Defense, Problems of Health and Acclimatization, Imperial Commerce and Communications.

Most of the material in the volumes is given to the major divisions of the Empire—The British Isles themselves, India, Canada, the Union of South Africa and Australia. Each division is a compilation of chapters by different authors of recognized authority on the topic treated. As an example of the method of treatment, the section on South Africa may be taken. It contains a chapter on Physical Geography and Geology of the Union of South Africa; one on Climate by the Government Meteorologist; others by competent writers on Vegetation and Fauna; Agriculture; Peoples; Government and Finance, etc. Each of the other divisions is treated under the same general outline. The smaller countries of the Empire are covered by single chapters, such as, for example, Labrador by W. T. Grenfell. At the end of each chapter is a short bibliography, and at the end of each volume tables of statistics—geographical, commercial, social and financial—and a gazetteer of towns. Scattered through the volumes are several finely executed colored maps, both physical and political, and a large number of diagrams and maps in black and white. These, together with many half-tone plates from photographs, greatly augment the value of the text.

The editors have succeeded to an unusual degree in overcoming the defects common to compilations of this kind. Repetitions occur, as is probably inevitable where many writers contribute to a single work; likewise relationships that should be drawn between the facts of different chapters are not stated and these gaps must be bridged over by the reader, but, in general, unity of treatment has been secured in spite of diversity of authors. The geographical viewpoint is consistently maintained; economic responses to physical environment are emphasized, but other determining factors are not overlooked; present conditions rather than past history are presented. As might be expected, the quality of the chapters vary, but taken as a whole, this series is the best description of the physical, economic and social conditions of the various parts of the British Empire that we have.

G. B. ROORBACH.

University of Pennsylvania.

HOPKINS, J. CASTELL (Ed.). *The Canadian Annual Review, 1915.* Pp. 880. Price, \$4.00. Toronto: The Annual Review Publishing Company, 1916.

As might be expected, this issue is given over largely to the European war. The first four hundred pages have to do with such matters as the position of the various belligerents during 1915, a chronology of the war, Canada's responses to war demands—her contribution in men, money and achievements. Then follow an appraisal of the position of the United States during the progress of the war and a record of the diplomatic relations between the United States and Great Britain.

Without imputing to the first part of the *Review* a lack of good faith or inaccuracies one may still suggest the advisability of continually applying the ordinary tests of historical criticism.

The last four hundred pages of the book treat of the outstanding issues and problems in each of the various provinces of Canada during 1915. Such data regarding our northern neighbor are not to be passed over lightly by anyone wishing to keep fully posted on what was doing in 1915.

C. H. C.

OLCOTT, CHARLES S. *The Life of William McKinley.* 2 vols. Pp. xxiv, 818. Price, \$5.00. Boston: Houghton, Mifflin Company, 1916.

The task of writing a biography of President McKinley was fortunately undertaken by an author of experience and literary ability. Having been connected with the publishing house of Houghton, Mifflin and Company for twenty-five years, Mr. Olcott brought to his work good standards and has succeeded in living up to those standards in presenting the life and work of William McKinley.

About three-eighths of the book deals with Mr. McKinley's early life and his work up to the time of becoming president, the remaining five-eighths of the work are devoted to a discussion of the tasks that confronted President McKinley and the spirit and manner with which he dealt with the problems he had to settle. The author is thoroughly in sympathy with Mr. McKinley's views on the tariff and upon all other public questions with the solution of which President McKinley

was concerned. This tends to deprive the work of a critical character and to make it almost without exception laudatory.

Mr. Olcott very properly gives a large amount of space to the discussion of events that preceded the Spanish-American War and to a consideration of President McKinley's conduct of the war. Mr. McKinley is entitled to great credit for the determination he manifested in holding Congress back for months from declaring war on Spain, and he is rightly entitled to credit for the manner in which he directed the peace negotiations. He has placed the country under great obligations for the way in which he organized the government of the Philippine Islands. Mr. McKinley, Secretary Root and Governor-General Taft started the American government in the Philippines in a manner that is entirely creditable to the United States. Among the other subjects considered by Mr. Olcott is the policy of the United States towards China during and after the Boxer trouble. The policy pursued by President McKinley and Secretary Hay was as successful as it was magnanimous and commendable.

EMORY R. JOHNSON.

University of Pennsylvania.

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The Purposes and Ideals of the Mexican Revolution

*Address delivered before the
Academy by*

Hon. Luis Cabrera

Hon. Ygnacio Barillas

Hon. Alberto J. Pani

Hon. Juan B. Ruiz

PHILADELPHIA

The American Academy of Political and Social Science

THE AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE

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THE PURPOSES AND IDEALS OF THE MEXICAN REVOLUTION

*Addresses delivered at a joint session of the
American Academy of Political and Social Science
and the Pennsylvania Arbitration and Peace
Society, held on Friday evening, November 10, 1916*

BY

HON. LUIS CABRERA

MINISTER OF FINANCE OF MEXICO AND CHAIRMAN OF THE MEXICAN
SECTION OF THE AMERICAN AND MEXICAN JOINT COMMISSION

HON. YGNACIO BONILLAS

MINISTER OF COMMUNICATIONS AND PUBLIC WORKS OF MEXICO AND
MEMBER OF THE AMERICAN AND MEXICAN JOINT COMMISSION

HON. ALBERTO J. PANI

DIRECTOR GENERAL OF THE CONSTITUTIONALIST RAILWAYS OF MEXICO
AND MEMBER OF THE AMERICAN AND MEXICAN JOINT COMMISSION

HON. JUAN B. ROJO

COUNSELLOR OF THE STATE DEPARTMENT OF MEXICO AND SECRETARY
OF THE MEXICAN SECTION OF THE AMERICAN AND
MEXICAN JOINT COMMISSION

With concluding remarks by

L. S. ROWE

*President of the American Academy of Political
and Social Science*



PHILADELPHIA

THE AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE
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FOREWORD

BY L. S. ROWE, PH.D., LL.D.,

President of the Academy

The addresses printed herewith were delivered at a joint meeting of the American Academy of Political and Social Science and the Pennsylvania Arbitration and Peace Society on the evening of Friday, November 10, 1916. The importance of the occasion, as well as the significance of the addresses, make it desirable to place them in the hands of every member of the Academy. The American public has never had an opportunity to form a judgment of the purposes of the Mexican Revolution. It has seemed important to the officers of the Academy that these purposes should be presented by the men who have taken not only a leading part in the revolutionary movement but who are now actively engaged in an endeavor to work out these purposes in concrete and practical form.

THE MEXICAN REVOLUTION—ITS CAUSES, PURPOSES AND RESULTS

BY HON. LUIS CABRERA,

*Minister of Finance of Mexico, and Chairman of the Mexican Section of the
American and Mexican Joint Commission.*

Whatever I might say in token of gratitude, for the honor conferred upon us by the American Academy of Political and Social Science and the Pennsylvania Arbitration and Peace Society, would be little in view of the great importance of the special invitation extended to us to attend this special session.

We consider it a high honor for our country more than for ourselves, and we are glad of the opportunity to make ourselves heard before a scientific and scholarly public, free from prejudice and interested in the Mexican situation. Owing to their special nature, the American Academy of Political and Social Science as well as the Pennsylvania Arbitration and Peace Society are institutions of scientific and humanitarian character. They have at heart only the investigation and the good of humanity, and in that spirit they study the Mexican situation.

Literature on Mexico which I have found in the United States is of an entirely superficial character, such as is contained in newspaper reports or interviews. Consequently, it is tinged with shallowness, based on rumors, and intended for telegraphic transmission. In many cases those reports have a political purpose and then the facts are not only inaccurate, but are set forth with the intention of moulding public opinion, or that of the United States Government, or of some political party. In many other cases the literature of Mexico known in the United States, is simply imaginative, like the novel or the moving picture exhibition. I do not know of any book, pamphlet or publication on the Mexican situation which has been prepared with a scientific purpose.

The sources of information have been either newspaper correspondents who discard 99 per cent of the important facts because they cannot extract from them a sensational headline for their papers, or foreigners who have interests in Mexico, and who look at the situation merely from the viewpoint of their own businesses.

Other founts of information are either Mexicans who reside abroad and whose views are affected by partisan bias, or politicians representing some special faction or chieftain. All such sources must necessarily be unreliable. Not one of them springs from the purpose of ascertaining the true conditions of Mexico, and the public who reads them desires to find therein the corroboration of its own opinions rather than precise data.

The mission which has brought us to the United States being of a diplomatic nature, prevents us from speaking with absolute liberty, and our connection with the Constitutionalist Government might cause our opinions to be viewed as decidedly partial. As regards myself, without losing sight of the fact that I belong to the Government of Mr. Carranza and am taking part in a diplomatic mission, I would like to say some words on the Mexican situation, appraising it from a purely scientific viewpoint.

Therefore I shall not speak either as an official or as a politician or as a diplomat, but only as a member of the American Academy of Political and Social Science who desires to present the general features of a scientific interpretation of the facts which have been agitating Mexico during the past six years.

THE CHAOS

The general impression regarding the Mexican situation, not only abroad but in Mexico, is that it is but chaos. The causes put forth by each Government, each chief, each conspirator, each politician or each writer, as the motives of the Mexican Revolution, are so numerous and conflicting that it is almost impossible to understand them. Some are general, others concrete, others immediate, and still others remote in their influence.

The simplest conclusion which indolent intelligence or impatient characters have extracted from this galaxy of motives, is that the Mexican people have an incorrigible tendency towards disorder and war, and Mexico is consequently the "sick man," whose cure is hopeless. The number of presidents that Mexico has had in a century, is nearly as large as the numbers of leaders, generals or chieftain who in the past six years have assumed the title of legitimate governments of Mexico. All possible forms of administration have tried to rule Mexico, ranking from brutally military governments, without organization of any kind, such as those of Zapata or Villa,

up to a Government of Democratic appearance, but headless, as that proceeding from the Aguascalientes Convention.

Foreign countries know of Mexico only what they see in the press headlines, and those tell merely of bloody deeds, battles, assaults, the blowing up of trains, massacres, shootings, imprisonments, exiles, etc. Judging from this kind of information, the situation in Mexico is a complete chaos. Neither the American people, nor the men who might be supposed to appraise the situation, can do so for lack of general lines of interpretation of those facts.

The student or the scientist who would like to understand and follow step by step the phenomena produced in the chemist's glass, or in the receptacle of bacteriological cultures, or in the crucible of the metallurgist; or the botanist who would like to follow minutely the development of the seed or of the grass, would find himself guideless to do so. Neither chemical, biological, nor sociological phenomena can be studied through direct observation of the elements at the time in which processes of transformation are taking place. It becomes necessary to know the nature of those elements, to observe the previous condition of them, and subsequently the phenomena materialized therewith.

To understand sociological phenomena, we need above all a general interpretation of a whole series of facts and of the evolving process; not a concrete explanation of each one of the facts as they take place. I shall endeavor to make such a scientific interpretation of the Mexican situation.

GEOGRAPHICAL DATA

Geographically, Mexico is a high triangular plateau, having its vertex towards the south and its base towards the north, comprised between two mountain chains, of which one runs parallel to the Gulf of Mexico and the other to the Pacific Ocean. This high plateau is dry and bare in its northern part, and has been chiefly devoted to cattle raising. In the southern part it is less dry and more fertile, and this southern portion, properly called the central plateau, is the cereal region.

The Gulf slope, damp and hot, is rich for tropical agriculture and gifted with extensive oil fields. The Pacific slope, dry and hot, but well irrigated by our mountains, will become an important

agricultural region. Yucatan, a stony desert, which has been able to produce only hemp, is out of the main body of Mexico, like Lower California. The mountain chains running parallel to the Gulf and to the Pacific, and which interlock in order to form the high Central Plateau, are not merely spurs, but comprise vast regions, constitute the extensive mountain portion of Mexico, and are the mining region.

For a long time Mexico was considered to be a country of marvelous wealth. Afterwards it was believed that Mexico, on the contrary, was a very poor country. The truth is that Mexico possesses great wealth, unexploited, and needing large investments of capital and exceeding energy and skill to develop it.

POPULATION

From the point of view of population, Mexico is as little known, as from the geographical. One speaks of the Mexican *people* and of the characteristics of such people, without taking into consideration that the Mexican people, or the Mexican race is not a well defined group, but an agglomeration which has been constantly changing during the past four hundred years, and is still in the process of formation. Before the Spanish conquest, hundreds of indigenous races existed, of such distinct and opposite characteristics, that it would be difficult to find another country in the world possessing such a number of different races. It is for facility's sake that we speak of the "Mexican Indian," instead of speaking of the hundred of indigenous races of Mexico.

After the Spanish conquest the indigenous population became enslaved. Later, through the efforts of the Spanish friars to protect the aboriginal races of Mexico, the Indians ceased being slaves, only to fall into a condition of legal incapacity. Subsequent to the Conquest a mixed or mestizos population began to appear, and it is still continuing and modifying its development day by day. In Mexico there is thus not a mixed population, properly speaking, with characteristics different from those of the Indian, or different from those of the white. We have a varying mixed population, which in certain strata are very near to the Indian, and in others cannot be distinguished from the white. For the rest, the ease with which whites mix with mestizos, and the latter with Indians, produces the fact that in Mexico the race question properly speaking

does not exist. There is merely a question of education, for as soon as the Indian has been educated, he actually takes his rank by the side of the mestizo.

The population problem consists in unifying the mixed race by means of education and intercrossing with the Indian race and in striving to secure the constant dissolving of the immigrant white races into the mixed race. This problem does not present difficulties as regards the intercrossing of the Indian race with the mixed race, but it is very serious as regards dissolving the white immigrants. The white immigration of Mexico as regards numbers, can be classified in the following order: Spanish, North American, French, Italian, English and German.

Of the white immigrants to Mexico the Spaniard nearly always blends with the native, so that after a generation it may be said that all the Spaniards become Mexicans. We may say the same thing of the Italian and immigrants of Semitic origin: the Arabians, Armenians, etc. After the Spaniard and the Italian, the German assimilates best, and becomes Mexican in two generations. The German frequently marries a Mexican woman and settles permanently in the country. The French come after the German, as regarding facility of blending.

The American immigrant very seldom becomes Mexican. The very small percentage of American immigrants who settle permanently in Mexico or who marry Mexican women, preserve American citizenship, educate their children abroad, and it may be said that 95 per cent of American immigrants remain always American, socially, politically, and ethnically. The English immigrant rarely becomes Mexican. Hardly ever does he marry a Mexican woman and his children are always educated abroad.

These brief explanations respecting the tendencies to assimilate the white population, reveal also many political and economic questions which exist in Mexico regarding the situation of foreigners.

EDUCATION

The lack of education of the indigenous population, is the only obstacle to the dissolution of the Indian population into the mixed one. Mexico has a problem of education. It will suffice to say that there are 80 per cent of illiterates in our country. Education in Mexico has had many obstacles. The principal ones have been the

landlord system, which has created the peon class, who are really serfs, and the action of the Roman Catholic Church during the nineteenth century, which has assisted landlordism to preserve in ignorance the indigenous masses.

The activities of the Spanish friars in the seventeenth and eighteenth centuries, and in general of the Catholic clergy during those centuries, may be said to have been constantly beneficial to the indigenous race. However, when the clergy acquired vast wealth and the Church became the great landowner, then the beneficial work of the Catholic Church for the education of the indigenous races of Mexico and the Mexican rural population in general, ceased to exist and there began a counter movement. The tendency of the Church then was directed to maintaining the rural population in ignorance.

The previous governments, either were not aware of the problem or did not wish to educate the Indian and the proletariat. The best proof of the failure of the Catholic Church as educator of the Indians is that after the Church has had four hundred years of absolute dominion in educational matters, we still have in Mexico 80 per cent of illiterates.

The tendency of the revolutionary government is, not only to remove the obstacles that the Mexican Government might have, but to devote a considerable portion of its efforts and of the public funds to the education of the masses of the people.

RELIGIOUS PROBLEM

Mexico has no religious problem properly speaking. The Spanish system of patronage extended to the Catholic Church by the Spanish kings gave a mighty temporal power to the clergy, which lasted up to 1860. In that year owing to the War of Reform the Church was dispossessed of its property, incapacitated from acquiring real estate, and deprived of temporal power.

During the long government of General Diaz the Catholic clergy creeping on from point to point in concealed form, recovered much of its temporal power and rebuilt part of its fortune. At present some members of the Catholic clergy have a tendency to recover the temporal power which the Church had enjoyed previous to 1860. The tendency of the revolutionary government is to render effective the absolute separation of Church from State, and to

prevent the Mexican clergy from recovering its temporal power, leaving it, however, in the most absolute liberty as regards religious matters.

AGRARIAN PROBLEM

The agrarian problem of Mexico is due to the geographical and ethnical conditions of the country. The Spanish colonial system of huge land grants, the constant absorption of real estate by the clergy during the eighteenth century and the first half of the nineteenth century, with the system of concession of Government lands adopted during the second half of the nineteenth century, created and continued a state of landlordism which has been the chief cause of disquiet in Mexico during the nineteenth century.

As a consequence of this landlordism there has been produced a constant condition of serfdom among the rural classes of Mexico, a condition known as peonage. The solution of the agrarian problem of Mexico consists in the destruction of landlordism to facilitate the formation of small farms, and also in the granting of "commons" to the villages. It includes the division or parcelling of large estates, and a system of taxes upon rural property to prevent the reconstruction of large estates. Up to date it may be said that large rural estates have almost never paid taxes.

NATURAL RESOURCES

The lack of Mexican capital has been the reason that mining and other Mexican industries have not been developed save through foreign capital. The Spanish Government believed that the economic development of Mexico should be based on land monopoly, and also on commercial privileges granted to Spaniards born in the mother country. In the exploitation of the natural wealth of Mexico, the system followed by the past administrations, and especially by that of General Diaz, was that of granting concessions so intrenched in privilege that further competition became impossible. This system of privileges and monopoly comprised not only the mining, petroleum and water power industries, but all kinds of industries and manufactures, commerce and banking. It may be said that, in general, the economic development of Mexico during the administration of General Diaz, was the growth of big business based on privilege.

The endeavor of the Revolutionary Government of Mexico is to obtain an economic development based on unshackled competition, and of such a nature that the development of existing business may not prevent future commerce and industry. From this point of view, foreign capital invested in Mexico upon the system of privilege considers itself attacked by the present revolution. However, if we understand the general tendency of the Mexican Revolution, we find that it opens a field of action for the investment of foreign capital much wider than that existing heretofore.

COMMERCIAL PROBLEM

The lack of fluvial navigation and the great height of the Central Plateau above the sea level, together with the uneven topography, have compelled Mexico to rely upon a scant system of railways. Because of this Mexico's commerce has been established on false bases. It has been simply importation and exportation with foreign countries, without developing domestic interchange of products. Commerce itself has been to a great extent the only fount of fiscal revenue, principally the commerce of importation. For a long time exports even of raw materials have been free from duty. The policy of the revolutionary government is to control the railways, these being the only ways of communication that the country has. It purposes also to develop other ways by utilizing the forces which lie latent in Mexico, *i.e.*, oil and water power.

INDUSTRIAL PROBLEM

The industrial development of Mexico has occurred during the last twenty years. Its basis has been artificial. It has consisted of an excessive protection to infant industries, rendering them uncertain and precarious because of their lack of mercantile bases, and it has prevented the establishment of competing industries. The tendency of the revolutionary government is to place the industrial development of the country upon a business basis, leaving aside the system of protection, concession, privileges and monopoly, until now the bases of that little development have been effected.

POLITICAL PROBLEM

The diversity in types of civilization as shown by the Indian, the mestizo and the white, furnishes to Mexico a serious social and

political problem which may be set forth by saying that it is necessary to find a formula of Government which may serve at the same time for a type of mediaeval civilization, as is the mestizo, and for a type of modern civilization, as is the foreign immigrant or the educated creole. If this be not possible, it would be necessary to find various governmental formulae and various régimes for each one of the elements forming Mexico's population.

Up to the time of General Diaz the political laws of Mexico have been based on advanced theories, but these have never been rendered effective. This produced inequality both juridic and economic. The political problem of Mexico consists in rendering effective the political and civil law. In order to do this it is necessary above all to find the proper legal and political formulae, so that after those laws have been promulgated, it may be possible to apply them efficaciously, securing thus equality of rights among all men.

INTERNATIONAL PROBLEMS

The international problems of Mexico deserve special attention, the main one being found in her relations with the United States.

After the war of 1847 which cost Mexico half of her territory, Mexicans were not able to regain confidence in regard to the imperialistic tendency that the Latin American countries attribute to the United States. During the Mexican revolution, after the occupation of Vera Cruz and the Columbus expedition, the fears of Mexicans of a conflict with the United States have increased considerably, chiefly since it is known that one of the political parties of the United States frankly advocates intervention. The repeated and public statements against intervention made by the Democratic Government of the United States, have not been sufficient to allay the fears of Mexicans.

As a neighbor of the United States, Mexico will also have as an international problem the danger of a conflict between the United States and some other European or Asiatic power. The foes of the United States, who are always foes of the whole American continent, will certainly assume to be friends of Mexico, and will try to take advantage of any sort of resentment, feeling or distrust that Mexico may have against the United States. Mexico, nevertheless, understands that in case of a conflict between the United

States and any other nation outside of America, her attitude must be one of complete continental solidarity. On this point the revolutionary government has followed a policy of frankness and consistency in her relations with the United States, putting always her deeds in accordance with her words, and sincerely trying to reach an understanding with the people and the Government of the United States.

Within Mexico, the real international problem is that of protecting foreign life and property and of establishing proper relations between foreigners and natives. On account of the non-enforcement of the political and civil laws in favor of Mexicans, and on account of the always watchful diplomatic protection that foreigners have enjoyed, a sort of privileged condition has arisen little by little in favor of foreigners. Mexico has the problem of equalizing the condition of Mexicans and foreigners, not by lowering the status of the foreigners, but by raising the condition of natives.

The privileged condition of foreigners that has existed in Mexico for a long time, has produced a certain jealousy, and distrust with which Mexicans look upon the increase of immigration and foreign investments in Mexico, since such increases would be considered as the strengthening of a privileged class.

The problem for Mexico is to find the way in which foreign money and immigrants can freely come to Mexico and contribute to her progress without becoming a privileged class. Instead of becoming a growing menace to the sovereignty of Mexico, they should contribute to the consolidation of her sovereignty and her independence as a nation.

All the problems heretofore stated have been always complex and greatly misunderstood. The old régime had created such interests as have just been described and those interests were so strongly bound up with the Government, that during the last years of the government of General Diaz it was quite clear that no peaceful solution was attainable. The transformation of the whole system by congressional action trying to change the laws and the Government at large, as well as the economic conditions of the country, would have required probably a whole century of effort, and still it is not certain that such solution would have been reached or that in the meantime civil war would not have broken out.

After the election of General Diaz in 1910, it was well under-

stood that the purpose of his election was to perpetuate the same form of Government and the same system as had long been in existence. The people saw that it was impossible to transform anything by peaceful methods. They had then to resort to force in order to destroy a régime which was contrary to their liberty, development and welfare. The last six years of internal upheaval, though chaotic in appearance, mean for Mexico the sociological transformation of her people.

A scientific interpretation of the Mexican Revolution is not possible, unless facts are taken as a whole and a considerable period of time is analyzed. All of us know that in the every day reading of the newspapers of the United States, matters of the utmost importance are analyzed and studied and conclusions are drawn from incomplete facts. It is impossible to draw sane conclusions from facts thus secured. I have never seen a country, either in Europe or in South America, where conclusions are drawn or editorials are written save after a reasonable time has justified the drawing of such conclusions. But in the United States the rush of public curiosity for facts is misunderstood as an eager curiosity for ideas, and so this is the only country in the world where we can see that an editorial comes the same morning in which a mere rumor on some subject is published.

This way of studying sociological facts, sounds to me like the attempt of a physics student who studies the swing of the pendulum and instead of waiting until the whole swing is complete or until a certain number of swings have occurred, is so eager to draw scientific conclusions that he would at any moment of the swing proceed to calculate the exact direction in which the center of the earth is placed. The conclusion of that student would be that the earth is mad and that its center is changing foolishly.

It has been said that the Mexican Revolution is not properly a revolution, but mere anarchy, that countries at peace consider dangerous and intolerable. Nevertheless, if we can demonstrate with facts that the Mexican Revolution has followed exactly the natural course of any other revolution, and if it can be demonstrated that even at the present time the revolutionary government of Mexico is pursuing a well defined program of reconstruction, one must necessarily reach the conclusion that the Mexican people are not acting madly, nor blindly destroying her wealth and her men,

but performing a task of transformation beneficial and indispensable, from which results may be expected that will be commensurate with the sacrifices that are now being made.

It will appear indeed as strange and bold, and it will perhaps shock to a certain extent, especially the members of the American Academy of Political and Social Science and of the Pennsylvania Arbitration and Peace Society that in a scientific and pacifist audience like this, one should come to apologize for force and insurrection as a means of securing the liberty and welfare of her people. I am not trying to impose my views, but simply applying sociological criteria to facts that have occurred in Mexico.

When a system of work is right, but we fail to obtain results from our efforts for lack of efficiency, the task of the reformer consists in improving that system. But when a system is radically wrong, we must abandon that system and find a better one. The gradual and slow reform of a system to make it suit the requirements of a man, of a business enterprise, of an institution or of a country, is called *evolution*. The abandonment of a system to be replaced by another, is called a *revolution*. The use of force is not essential to a revolution; but the revolution in the personal conduct of men, in business or in communities, implies always a considerable effort and a great amount of sacrifice.

Historically, we can assert that with very few exceptions, the greatest conquests of human liberty and human welfare have not been made without large sacrifices of men and property. Sociologically, the revolution is the rebellion of a people against a social system that has been found wrong. But as every social system is embodied in certain laws and in a certain political organization, revolution appears always as a violation of existing laws and as an insurrection against the Government. Hence all revolutions appear as anarchical attempts to destroy society and this is also why most insurrections are called revolutions.

A revolution means the use of force to destroy an unsatisfactory system and the employment of force and intelligence to build the new system. A revolution has consequently two stages clearly defined; the destructive, which is nearly always a period of war and rebellion against the so-called established Government, and the stage of disavowal of most of the existing laws, which means the use of force against the social, economic and legal system.

When the old régime has been destroyed, the mere reestablishment of legal order without any change, would be tantamount to the simple reconstruction of the same structure already destroyed. This is what sometimes makes revolutions fail. To avoid this, any revolution has a second stage that is always known as the period of revolutionary government. During this second period, force is also employed in the form of a dictatorial government, to establish the required reforms, that is to say, to lay the foundations of the new social, economic and political structure. After every revolution, a period of dictatorial interregnum has always followed, because revolutionary dictatorship means the use of force for reconstruction.

When the foundations of reconstruction have been laid down, then it is possible to return to a legal régime no longer based upon the old legislation nor upon the obsolete system, but upon new principles that become the new legal system, that is to say, the new régime. The French Revolution has been the most complete example of a revolution, with its frankly destructive period, its anarchic state, its revolutionary government and its new régime upon which France afterwards developed and we also can say upon which the rest of Europe has subsequently developed.

The Mexican Revolution was nothing more than the insurrection of the Mexican people against a very repressive and wealthy régime represented by the government of General Diaz, and against a social, political and economic system supporting such government. This revolution had as its prodrome the political insurrection of Madero. But Madero saw no more than the political side of the Mexican situation. He professed that a change of Government was sufficient to bring about a change in the general conditions of the country. Madero compromised with the Diaz régime, acquiesced in taking charge of his Government, and ruled the country with the same laws, the same procedure and even with the same men with whom General Diaz had ruled. The logical consequence was that Madero had to fail because he had not destroyed the old nor attempted to build a new régime. The assassination of Madero and the dictatorship of Huerta were mere attempts at reaction made by the old régime with its same men, its same money and its same procedure, and an attempt to reestablish exactly the same old conditions that existed during General Diaz' rule.

The Constitutionalist Revolution set forth from the very beginning its line of conduct. The Plan of Guadalupe issued by Mr. Carranza in March, 1913, immediately after the assassination of Madero, is the straightest revolutionary proclamation that could be imagined to destroy an old régime. This plan meant the absolute disavowal of the executive, legislative and judicial powers that had existed up to that time, and authorized the use of force for the destruction of Huerta's government, which was being supported by General Diaz' army, by the power of the landowner and by the moral influence of the Catholic clergy.

A period of bloody war followed, and when Huerta was finally defeated and the chief of the constitutionalist revolution reached the City of Mexico, it was believed that the destructive period of the Mexican Revolution was at an end. But a period of an extremely chaotic and anarchic character necessarily followed. At the end of 1914 the Mexican situation was most puzzling and bewildering, and still it was at that very moment and in the middle of such an extreme confusion, that Don Venustiano Carranza, as the chief of the Constitutionalist Revolution, set forth the general outlines upon which the reconstruction of Mexico was to be carried out.

These outlines are embodied in the decree of December 12, 1914, which I will quote here as the best interpretation of the basic lines upon which the new régime and the new social system were to be found. The decree in substance indicates that whereas the use of force had been required to overthrow the Huerta Government in view of the chaotic conditions of the country, it was necessary to use the same force to continue the struggle until peace should be attained, and to reconstruct the new régime.

The main provisions of said decree read as follows:

ARTICLE 1. The Plan of Guadalupe of the 26th of March 1913 shall remain in force until the complete triumph of the Revolution. Consequently Citizen Venustiano Carranza will continue as First Chief of the Constitutionalist Revolution and in Charge of the Executive Power of the Nation, until such time as the enemy is vanquished and peace is restored.

ART. 2. The First Chief of the Revolution, in Charge of the Executive Power, will issue and put in force during the struggle all such laws, regulations and measures that may satisfy the economic, social and political requirements of the country, carrying out such reforms as public opinion may require to establish a régime to guarantee the equality among all Mexicans, to wit: Agrarian laws that may facilitate the creation of small property, parcelling the large estates and restoring to the villages the commons of which they were unjustly

dispossessed; fiscal laws tending to reach an equitable system of taxation upon real estate; legislation to better the condition of rural laborers, working men, miners and in general of all the proletariat; establishment of municipal liberty as a constitutional institution; basis for a new system of organization of the army; reform of the electoral system to obtain actual suffrage; organization of an independent judicial power both in the Federation and the States; revision of laws relating to marriage and civil status of persons; regulations that will guarantee the strict enforcement of the Reform laws; revision of the civil, criminal and commercial codes; reformation of judicial proceedings for the purpose of obtaining a rapid and efficient administration of justice; revision of laws relative to the exploitation of mines, oil, waters, forests and other natural resources of the country, in order to destroy monopolies created by the old régime and to avoid the formation of new monopolies in the future; political reforms that may guarantee the real enforcement of the Constitution of the Republic, and in general of such other laws as may be considered necessary to ensure to the inhabitants of the country the real and full enjoyment of their rights and equality before the law.

ART. 4. At the triumph of the Revolution, when the Supreme Power be reinstated in the City of Mexico and after municipal elections take place in most of the States of the Republic, the First Chief of the Revolution, in Charge of the Executive Power, will call elections for the Federal Congress fixing the proclamation, the dates and conditions in which said elections must take place.

ART. 5. When the national Congress assembles, the First Chief of the Revolution will report to it concerning his stewardship of the power vested upon him by this decree, and he will especially submit the reforms issued and put in force during the struggle, so that Congress may ratify, amend or supplement them, and raise to the rank of constitutional provisions such laws as may have to take that character; all before the establishment of constitutional order.

The reading of this decree is of the utmost importance to all who seem to be confused by events developing in Mexico since the overthrow of Huerta, and to those who see in Mexico only an incomprehensible condition of anarchy. It will be of still greater importance to know that this decree has been the rule under which the construction of Mexico is being made by the Revolutionary Government.

Students of the Revolution of Mexico from a disinterested and scientific point of view, should keep in mind, as an outline for the interpretation of the events of the last six years, the following points, which might be at the same time a sort of index to the chapters of an extended study of the Mexican situation.

- I. Causes of the Mexican Revolution as derived from the political and economic development of the country up to the end of the nineteenth century.

- II. Prodromes of the Mexican Revolution until the death of Madero.
- III. Destruction of the political and military powers of the old régime, until August 1914.
- IV. Destruction of the economic power of the old régime during the preconstitutional period (1915-1916).
- V. Beginning of the reconstruction.

Such has been the development of the Mexican Revolution, and such is the interpretation of past, present and future occurrences in regard to this revolution. Such has to be the interpretation, regardless of who are the men in the government.

If Carranza and the men around him are personally overpowered by the new anarchic period, and if they have to die or get out, that would not mean that my conclusions are wrong. It would only mean that a man is not always a span between two régimes. There have been cases in which a revolution has been completed during the life of a man, be he Cromwell or Washington. At other times a long list of heroes and martyrs is required to complete a transformation of the people, from Mirabeau to Napoleon.

In Mexico we have had three revolutions. Our revolution of independence in 1810 was not carried out by a single man. Hidalgo initiated it and died without seeing the end. Morelos continued it and also passed away before our country was free. Guerrero was the only one who saw the consummation of our independence. In 1857 it took only Juarez to see the beginning and the end of the reform revolution. The present revolution has already consumed Madero. If Carranza does not see the end of this movement, that will not change the development of the revolution. It will only mean that Carranza himself and the men around him are no more than a link in the chain of men who will sacrifice their lives for the liberty and the welfare of the Mexican people.

To close my remarks I wish to reiterate my apologies to the audience, and especially to the members of the American Academy of Political and Social Science and of the Pennsylvania Arbitration and Peace Society, for the theme I have chosen for this conference. I sincerely believe that the people of this country need to study the Mexican Revolution, not only for the sake of their interest toward Mexico, nor for their own interest alone as our neighbors, but also

as an example of an economic and social revolution that is taking place in the twentieth century.

I wish a great prosperity and a long peace to this country, and that the solution of all its problems may be made by peaceful methods. Nations nevertheless, when they make mistakes in their development, have to experience a revolution. If such a revolution can be accomplished without disturbance of peace, unnecessary evils can be avoided and all the benefit that a revolution necessarily brings about will be reaped.

Bernard Shaw says that revolution is a national institution in England, because the English people, through democratic proceedings, can make a revolution every seven years, if they choose to do so. The Anglo Saxon referendum is no more than a right to peaceful revolution. The Mexican people do not enjoy that blessing, and have been obliged to engage in a bloody and costly revolution to attain their liberty and welfare. There is an excellent reason.

A revolution is not always a source of evil and tears, just as fire does not always produce devastation. Unexplored wildernesses of the Temperate Zone can be opened to agriculture by exploiting the forest wealth and at the same time preparing the soil for future cultivation. In tropical countries, however, the common way of opening fields to cultivation is to clear them with a great fire that consumes indeed much natural wealth, but which at the same time devours rapidly the jungle and by purifying and fertilizing the soil, saves a large amount of work.

THE CHARACTER AND THE PROGRESS OF THE REVOLUTION

BY HON. YGNACIO BONILLAS,

*Minister of Communications and Public Works of Mexico, and Member of the
American and Mexican Joint Commission.*

From its very inception, the spirit of reconstruction along lines of social, economic, political and industrial tendencies has been manifest in the Mexican Revolution. It has crystallized in deeds which have produced a deep impression upon the minds not only of those who have taken an active part in the movement, but also of those interested in preserving the old conditions. The character and earnestness of the principal leaders of the Mexican Revolution proclaimed to Huerta, the usurper, and to his associates, that the struggle, begun in the northern states of the Republic, was to be waged to a finish, not only to avenge a hideous crime, and to dispel from the mind of the civilized world the impression that the people of Mexico would submit tamely to such a national affront, but also that a new order of things might be established embodying improvements in all departments of the national life. It was annoying to Huerta and his followers that men from the north, whose records in private and public life were clean, and that men emerging from partial or complete obscurity, should sever their connections with homes and business; that they should give themselves up with all their resources to the vindication of the national honor and to the creation of new institutions and a government by the people and for the people.

Because of this attitude of the Huerta government, the revolutionists—whether engaged in military or civil pursuits—were often approached by the partisans of the illegal government, with tempting offers to discontinue their participation in the revolution and to accept high positions in civil, diplomatic, or active military service. The invariable reply was a flat refusal accompanied by patriotic declarations of unswerving fidelity to the high ideals proclaimed by the revolution. Such an attitude from resolute men, in the very capital and from all quarters of the Republic, could

only forebode ill to the usurper and to the privileged classes who supported him. The downfall of the government which had been born of treason and murder was accomplished by the victorious army headed by its first chief Venustiano Carranza. As Constitutional Governor of the State of Coahuila at the time of the coup d'état, he had never hesitated a moment to disavow the military government of Huerta. He did it also in spite of the appalling odds against him and the small group of patriots who took up arms with him. They firmly resolved to blot out the shame cast upon the national honor and to restore to the country the constitutional government which had perished with the tragical demise of its lawful representatives—Madero and Pino Suarez. It took seventeen months—from March, 1913 to August of the following year—to accomplish this. The enemy was vanquished in numerous encounters and the City of Mexico, the capital of the Republic, was finally occupied.

It is needless to mention the terrible sacrifices incurred in attaining the triumph. Historical precedents show distinctly that no important achievements in the life of a nation are accomplished without sacrifices, and we hold that, in the vindication of our national honor, no sacrifice could be too great.

It may be supposed by those who are unacquainted with Mexican political, social and economic conditions, that the original purpose of the revolution, having been accomplished by violent and destructive means, further conquest and the attainment of the national welfare, might be left to the slow processes of evolution. To the leaders of the revolution, however, and to all other sound thinking people in Mexico, the opportune moment had arrived for carrying out political, social and economic reforms, deemed indispensable for the reestablishment of a government founded upon principles of right and justice to all.

Furthermore, the triumph of the revolution was a triumph of the people, of the down-trodden and oppressed, over a corrupt aristocracy and more corrupt clergy. Since Colonial times and almost without interruption these privileged classes have held the reins of government and complete despotic sway over the country and its destinies. They have governed it for their own selfish aggrandizement and to the detriment, in all respects, of the other classes who constitute the great majority of the people. The suc-

cess of the revolution had been comparatively easy and the resources of the privileged classes at home and abroad, remained practically intact. Large numbers of officers, civil and military, of the old régime, who had been generously amnestied, remained within the confines of the country and many more such were enjoying the spoils of their rapacity in foreign lands.

It could hardly be expected that such elements, so thoroughly accustomed to rule the country in an absolute manner, would assume a mild attitude without a further struggle. While the armies of the old régime were being vanquished, they practiced their old tactics of creating dissension among the victors. The insubordination of the Division of the North and the unpatriotic action of the Aguascalientes convention was due to the efforts of these reactionaries to regain power.

In this second epoch of the Constitutionalist Revolution the struggle was more intense and the number of participants was greater than in any previous war in the history of the country. There was a time during the armed conflict when all except honor seemed to be lost for the cause of legality, personified by the First Chief Carranza and by the group of loyal citizens who derived from him a constant inspiration to perform acts of chivalry and valor, and to persist undismayed until final success was attained. Victory was achieved by the indomitable army under the leadership of General Obregon upon the battlefields of Celaya, Leon, Trinidad, Aguascalientes and many others where the armies of the reactionaries were completely and ignominiously defeated and dispersed.

It might be supposed that during the armed conflict in these two epochs attention had been given to nothing but the vanquishment of the enemy, and that nothing but a destructive campaign was the rule. Such was not the case. All departments of the government were organized and much reconstructive work was accomplished, although under most adverse circumstances. Wherever the Constitutionalist arms obtained control the organization of temporary municipal and state governments followed, and the work of pacification, and the betterment of conditions for the amelioration of the people ensued.

The most earnest endeavors have been and are being made by the government of the Revolution to restore order at the earliest possible moment. To that end, municipal elections have been held

throughout the country and the officials elected in their respective localities took their oath of office and entered upon the discharge of their duties on the 16th of last September, the anniversary of Mexican independence.

Another general election of great significance was held throughout the country last month. Delegates were chosen to a constitutional convention which is to meet at Queretaro on the 20th of this month, for the purpose of revising the federal constitution and to pass upon such decrees of the First Chieftaincy as are in the nature of Constitutional amendments. The convention will be in session for two months and during its deliberations will set the time for the next presidential election. This is an event to which the country looks forward with intense interest, as it hopes that with the return to Constitutional order, Mexico will take her place among the family of nations under a government of the people, by the people and for the people.

THE SANITARY AND EDUCATIONAL PROBLEMS OF MEXICO

BY HON. ALBERTO J. PANI,

Director General of the Constitutionalist Railways of Mexico and Member of the American and Mexican Joint Commission.

During the most acute and violent period of an armed revolution—a veritable chaos in which it would seem that the people after destroying everything try to commit suicide in a body—the news of isolated cases, however horrible, makes but little impression. As the struggle gains form by the grouping of men around the various nuclei which represent the different antagonistic principles, individuals grow in importance until the nucleus which best interprets the ambitions and wants of the people acquires absolute ascendancy. Henceforward this group is unreasonably expected to fulfil strictly all the obligations usually incumbent upon a government duly constituted. The sensation then provoked by the news of isolated cases of individual misfortune, because of their very rarity, causes greater consternation.

This is precisely what is occurring with the present Mexican government. Select any two dates from the beginning of its organization. Compare dispassionately the relative conditions of national life on each, and one must admit that the country is rapidly returning to normal political and social conditions. It is also undeniable that the temporary interruption of a line of communication, or the attack on a train or village by rebels or outlaws, now causes an exaggerated impression. People forget that not so long ago, the greater part of the railway lines, or even of the cities of the Republic were in the hands of these rebels or outlaws, and that in the very territory now dominated by the constitutionalist government, trains and towns were but too frequently assaulted.

It is unreasonable to try to make the present government responsible for the transgressions of its predecessors. The revolution itself is a natural consequence of these faults. Former governments who knew not how to prevent the revolution, are responsible for the evils which may have come in its train, and should the nation

be saved, as it shall be, it will be due solely to the citizens who have been willing to sacrifice themselves. Only through such personal sacrifices as these is it possible to construct a true fatherland.

The enemies of the new régime—irreconcilable because they will not accept the sacrifices imposed—are now burning their last cartridges, making the constitutionalist government responsible for many of the calamities which caused the revolution, and which the government, impelled by the generous impulse which generated it, purposes to remedy. Thus do we explain the protests of the discontented, and the monstrosity that these protests are even more energetic and loud when they defend money than when they defend life itself.

The theme of this night's address refers to one of these calamities, a shameful legacy of the past. Inimical interests are trying to attack the constitutionalist government on this score, though it is the first government in Mexico which has tried to remedy this evil. Having been appointed by the first chief in charge of the executive power of Mexico, Mr. Carranza, to make a study of the problem, I would have only to summarize or to copy, in order to develop such theme, some fragments of the resulting report.

One of the most imperative obligations that civilization imposes upon the State is to duly protect human life, to permit the growth of society. It becomes necessary to make known the precepts of private hygiene and to put them in practice, and to enforce the precepts of public hygiene. For the first, there is the school as an excellent organ of propaganda. For the second, with more direct bearing on healthfulness, there are principally special establishments to heal, to disinfect, to take prophylactic measures. Then there are engineering works, laws and regulations to put in force by a technical personnel, or by an administrative or police corps. *It may therefore be said without exaggeration, that there is a necessary relation of direct proportion between the sum of civilization acquired by a country, and the degree of perfection attained by its sanitary organization.*

The activities, in this respect, of General Diaz' government, during the thirty odd years of enforced peace and of apparent material well-being, were devoted almost exclusively to works to gratify the love of ostentation or speculation. Seldom were they devoted to the true needs of the country. There were erected magnificent buildings. To build the national theatre and capitol, both unfinished, it was planned to spend sixty millions of pesos. When it was a case of executing works of public utility, their construction was made subservient to the illicit ends pointed out. Thus, for

example, the works of city improvement, never finished, not even in the capital, in spite of the conditions of notorious unhealthfulness in some important towns, were always begun with elegant and costly asphalt pavements, which it became necessary to destroy and replace, whenever a water or drainage pipe had to be laid. The work of education undertaken by the government was chiefly dedicated to erecting costly buildings for schools: it is only in this way, therefore, that we can realize that the proportion of persons knowing how to read and write is barely 30 per cent of the total population in the Republic.

The net result of what was done in these respects during the long administration of General Diaz could not be more disastrous. If we take the average mortality for the nine years from 1904 to 1912, the heyday of that administration, we find that in Mexico City, where the greatest sum of culture and material progress is to be found, there is a rate of mortality of 42.3 deaths for each one thousand inhabitants. That is to say:

I. *It is nearly three times that prevailing in American cities of similar density (16.1);*

II. *Nearly two and one-half times larger than the average coefficient of mortality of comparable European cities (17.53) and*

III. *Greater than the coefficient of mortality of the Asiatic and African cities of Madras and Cairo (39.51 and 40.15 respectively) in spite of the fact that in the former, cholera morbus is endemic.*

During the same period the annual average of deaths in the City of Mexico was more than 11,500. These deaths were due to diseases that are avoidable if proper care of private and public health be observed and constitute an arraignment against the administration of General Diaz. As the deaths occasioned by the Revolution during the six years surely do not reach 70,000, we find that the government of General Diaz—so greatly eulogized—in the midst of peace and prosperity, did not kill fewer people than a formidable Revolution which set afire the whole Republic, and horrified the entire world.

But the truth is that General Diaz' government did not recognize the formula of *integral progress*—the only one which truly ennobles humanity—but wasted its energies in showy manifestations of a *progress purely material and fictitious*, with the inevitable train of vice and corruption. The ostentatious pageant—the most

shameless lie with which it has ever been attempted to deceive the world—which celebrated the anniversary of national independence, took place only a few weeks prior to the popular revolution of 1910, before whose onrush the government fell like a house of cards.

Let us now turn to the constitutionalist government. On its banner it has written its resolve to better the condition of the life of the people, socially and individually, and its sincerity and energy may be seen not only in its words but in its deeds.

The constitutionalist government remained at Vera Cruz at the close of 1914 and at the beginning and middle of 1915, while its army reconquered the territory of the Republic, which had been almost wholly in the hands of the enemy. In spite of being engaged in the most active campaign in the annals of Mexican history, this government still found time to take up the efficient political and administrative reorganization of the country.

Whoever may know something of our history, and may view with impartiality the long and complicated process of formation of our nationality, from the pre-Cortes period—through the troublous time of the Conquest, the colonial days under the viceroys, the wars of Independence, the convulsions only calmed by the iron hand of Diaz, through nearly a century of autonomous existence—until our own time—will be bound to discover in the salient manifestations of the life of our national organism, the unequivocal symptoms and stigmata of a serious pathological state, brought about by two principal agents: *the loathsome corruption of the upper classes, and the inconstancy and wretchedness of the lower.*

The iniquitous means used by Don Porfirio Diaz to impose peace during more than thirty years, not only annulled all efforts tending to remedy the evils discussed, but rather determined their greater intensity. As a matter of fact, it satisfied the omnivorous appetites of his friends and satellites; it crushed and caused the criminal disappearance of whoever failed to render tribute or bow to his will; it fostered cowards and sycophants, repressing systematically and with an iron hand, every impulse of manliness and truth. It placed the administration of justice at the unconditional disposal of the rich, paying not the slightest heed to the lamentations of the poor. In a word, it increased the immorality and corruption of the small and privileged ruling class and increased in consequence the sufferings of the immense majority, grovelling in ignorance and hunger. Therefore, the thirty or more years of praetorian peace but served to deepen still further the secular chasm of hatred and rancor separating the two classes mentioned, and to provoke necessarily and fatally the social convulsion, begun in 1910, which has shaken the whole country.

The three aspects of the problem which I have presented—the economic, intellectual and moral—coincide with the purposes of education through schools, as ideally dreamed of by thinkers, that is as "*Institutions whose object is to guide and control the formation of habits to realize the highest social good.*" But our schools,

unfortunately, have not yet acquired the necessary strength to assuage in an appreciable degree, the horrible ambient immorality, or to counterweigh its inevitable effects of social dissolution.

The true problem of Mexico consists therefore in hygienizing the population physically and morally, and in endeavoring to find through all means available, an improvement in the precarious economic situation of our proletariat.

The part of the solution of the problem which corresponds to the Department of Education or to the municipalities, must be realized, by *establishing and maintaining the greatest possible number of schools.* To do this their cost must be reduced by means of a *rational simplification of the organization and of the school programs.* This must be done *without losing sight of the fact that its preferential orientations should be marked by: (1) the essentially technological character of the teaching, to cooperate with all the other organs of the Government, in the work of economic improvement of the masses, and (2) the diffusion of the elemental principles of hygiene, as an efficient protection for the race.*

"And finally, as the medium constitutes an educational factor more powerful than the schools themselves, the country must, before and above all, organize its public administration upon a basis of absolute morality."

Restricting myself to the purpose of this address, it will in conclusion suffice to say that even when the constitutionalist government ruled but an insignificant portion of the country there were sent to the principal centers of culture of the United States several hundred teachers to investigate and secure data to reform school matters in Mexico. This was done at a time when dollars were of great importance for the purchase of war material.

Subsequently, in spite of the countless obstacles which seemed to obstruct every step of the government, the number of schools has been greatly increased. It is not much greater than it was before the Revolution and in some states the number has been doubled. There have been effected, besides, important works of city improvement in Mexico, Saltillo, Queretaro, Vera Cruz, etc., and the mouth of the Panuco River is about to be dredged. It has been specified in the respective contracts that the soil taken out is to be used to fill in the marshy zone around Tampico, thus eliminating the chief cause of the city's unhealthfulness.

In short, in order that the government which has arisen from the constitutionalist revolution may realize its program of public betterment, which implies the physical and moral hygienizing of Mexico, it is only necessary to give it time. Only some magic art could transform in a moment a group of human beings into an angel choir, or a piece of land into a paradise.

THE MEANING OF THE MEXICAN REVOLUTION

BY HON. JUAN B. ROJO,

*Counsellor of the State Department of Mexico and Secretary of the Mexican Section
of the American and Mexican Joint Commission*

The Mexican Revolution is a revolution. I use these words, which are not my own, to emphasize the true character of our struggle; and as I know that in the United States as well as in foreign lands, public opinion is at sea regarding us, due to the efforts of those who strive to resurrect obsolete systems, I have thought it my duty, as a Mexican who loves his native land, to try to explain, however deficiently, the real motives of this vast social movement. This excuses my efforts, such as they are, before so distinguished a gathering, in a language practically unknown to me.

The founts of alleged information are responsible for the derogatory conception of Mexico in the minds of most Americans. Writers of overheated imagination depict Mexico as a land of mental as well as physical quakes, where everything is perpetually boiling,—the climate, the politics, and the passions. Men of business look upon Mexico as an alluring field for capital, for investment (or rather for exploitation), in the most onerous sense of the word. The reader in general, reflecting on the morning pabulum of his favorite newspaper, believes that the revolution is but a kaleidoscopic succession of battles and skirmishes, with the leaders now on top, and now underneath, something like dogs and cats in a barrel. Even the fair-minded cannot know what is going on south of the River Grande, as they cannot know the truth.

In all social upheavals which have to be decided on the field of battle, the far-away observer is apt to lose sight of the motives and purposes, the psychological energy. He only rivets his attention upon the warrior's bloody business, which is but the exteriorization of thought's evolution. In all its history, from the struggle for independence, Mexico has struck some notes, has cleared some paths, which have awakened the interest of the United States.

The struggle to throw off the Spanish yoke, though it did not awake any special interest in the United States, did at least elicit

its sympathy. In truth the subjects of mutual interest between the budding North American democracy, and the secular Spanish colony were few. Investments of American capital, and American settlers were barely noticeable. It was after the fall of Maximilian's empire, and the triumph of the liberals in Mexico that relations really began. In that critical period of our history, when Napoleon III decided to impose by force an imperial throne upon free America, the spirit of justice and foresight of the American people awoke to the danger, and the United States helped us in a positive manner to regain our freedom and develop our individuality. Slowly, capital and technical skill came to work among us, and we received them with open arms.

Mexico is a great field for endeavor and capital, and fortunes have been made overnight. Therein lay the red flag of danger. Enormous regions on the north were surrendered for a song to would-be colonists who were to transform them into rose gardens, yet the wilderness still exists and the rose gardens are not in evidence. The Mexican government's concessions were utilized to exploit, not the land but the concession. This benefited many but not the country itself which lost untold millions of acres solely for the advantage of speculators, who had no intention of making needed improvements or of creating anything except trouble.

If it was the case of an "infant industry," it was smothered with privileges and franchises to such an extent that if a competitor tried later to enter the field, it found its efforts of no use in view of the first one's monopoly. It was simply that the first got all, and the others found the field closed. It would be out of place to cite examples in these cursory remarks, but there were many companies with no competition to face who dreamed only of their privileges. They did nothing, and prevented others from doing anything. I must say that free competition appeals much more to me. In struggles of all kinds, biological, social, and economic, the triumph goes to the fittest. I cannot believe that individuals, or industries, really require the state's crutch in order to progress.

The Mexican revolution understands the need of developing the country; that progress depends on work. It wishes to unshackle opportunity, and open the doors to those who wish to work and to get an adequate return for their efforts. Instead of accumulating all of the wealth in the grip of a handful who adopted a dog-in-the-

manger policy towards development, the revolution wishes to help the average man and to destroy the treadmill of hateful privilege.

Finally, the revolution has been called inimical to foreigners, and it is alleged that it denies them their rights. This is a phenomenon like those Spencer called "errors of social perspective." For a long time written law existed in Mexico merely as a matter of form and only in books. Its guarantees and its sanctions were never applied for the benefit of the common people. Only foreigners, and especially those of such high position that they could bring their influence to bear upon their diplomatic representatives, could secure the application of the law through diplomatic channels, provided such law was favorable to them. A rigorous law was always applied against the Mexican.

From all this there resulted the fact that thus the foreigner was aided and the Mexican was at a serious disadvantage in the enjoyment of rights and in the protection of the laws. It is now the purpose of the revolution that all may equally enjoy such benefits. The revolution withdraws nothing from the foreigners that they had before, but it grants to Mexicans what was denied to them. Hence the astonishment that for the first time in the history of Mexico the equality of all before the law is sought.

I wish to make this point clear. Our purpose is not to lower the status of the foreigners. We desire that they come and work among us, and contribute to the nation's development through their capital and labor and skill. But we also wish that the Mexican too may know that in his own country he will receive similar justice.

If my labored words have not been well understood, they may yet cast some light upon the points which I wish to make clear. If I have secured this result I shall consider myself happy. I beg this distinguished gathering to excuse my many deficiencies in the use of a language that is not my own.

CLOSING REMARKS BY THE PRESIDENT OF THE ACADEMY

Permit me, in the first place, to say to the members of the American and Mexican Joint Commission, how deeply we appreciate the privilege of welcoming you to this special session, which is being held in your honor. We all have the feeling that in the conduct of her international relations the United States must stand for new and higher standards of international dealing. Jealousy and distrust must give way to frankness, helpfulness and coöperation. If there is any one mission which the privileged position of the United States calls upon her to perform it is to sound a new note in international intercourse. It is because the work of this Commission is the expression of these higher standards that we deem it a privilege to do honor to the men who are conducting these negotiations. We realize that the situation bristles with difficulties; that the problems involved are delicate and undoubtedly at times baffling, but it is no less true that it is only through such negotiations that a permanent and effective settlement can be reached; a settlement not only in harmony with the dignity of both countries, but one calculated to allay animosities, promote mutual confidence and establish a relationship which will contribute to the peace and prosperity of both nations.

We desire to avail ourselves of your presence to give you a message which we hope you will carry with you to your people. We earnestly hope that the mission which has brought you to this country will be entirely successful; that the difficult and delicate problems pending between the United States and Mexico will be solved to the satisfaction of both countries. We hope, furthermore, that your domestic problems will be solved in a manner no less satisfactory. The people of the United States desire to see a Mexico prosperous, progressive, independent and sovereign. We desire this both for your sake and for our own. Our welfare, our peace of mind, depend in large measure on the establishment of cordial relations with our neighbors. You carry with you, therefore, the earnest hope of these two associations for the peace and prosperity of your country. You may rest assured that every effort

in Mexico to improve the condition of the masses of her people will find a responsive echo in the United States. In this work you have not only our good wishes, but the assurance that if we can in any way be helpful in the furtherance of this great plan we will deem it a privilege to coöperate. The vast educational agencies of this country are at your service in the solution of your educational problems; the public health agencies of the United States are ready to assist in the solution of the sanitary problems. It is our earnest hope that through a policy of frank and cordial coöperation there will be established in the relations between Mexico and the United States a new standard of international helpfulness and solidarity.

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